ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE
April 11, 2001
3:25 p.m.

MEMBERS PRESENT

Representative Lisa Murkowski, Chair
Representative Andrew Halcro, Vice Chair
Representative Kevin Meyer
Representative Pete Kott
Representative Norman Rokeberg
Representative Harry Crawford
Representative Joe Hayes

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Representative Vic Kohring

COMMITTEE CALENDAR

HOUSE BILL NO. 182
"An Act relating to motor vehicles; and providing for an effective date."

- HEARD AND HELD; ASSIGNED TO SUBCOMMITTEE

HOUSE BILL NO. 225
"An Act relating to municipal taxation of alcoholic beverages and increasing the alcoholic beverage tax rates."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 182
SHORT TITLE:MOTOR VEHICLE SALES AND DEALERS
SPONSOR(S): REPRESENTATIVE(S)MURKOWSKI

Jrn-Date	Jrn-Page		Action
03/14/01	0586	(H)	READ THE FIRST TIME - REFERRALS
03/14/01	0586	(H)	L&C, FIN

03/14/01	0586	(H)	REFERRED TO LABOR & COMMERCE
04/11/01	0970	(H)	COSPONSOR(S): HALCRO
04/11/01		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 225
SHORT TITLE:ALCOHOLIC BEVERAGE TAX
SPONSOR(S): REPRESENTATIVE(S)MURKOWSKI

Jrn-Date	Jrn-Page		Action
03/30/01	0789	(H)	READ THE FIRST TIME - REFERRALS
03/30/01	0789	(H)	L&C, FIN
04/03/01	0830	(H)	COSPONSOR(S): HUDSON
04/09/01		(H)	L&C AT 3:15 PM CAPITOL 17
04/09/01		(H)	Heard & Held MINUTE(L&C)
04/10/01		(H)	L&C AT 3:00 PM CAPITOL 120
04/10/01		(H)	Heard & Held MINUTE(L&C)
04/11/01		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

RALPH SEEKINS, President
Seekins-Ford-Lincoln-Mercury, Inc.
1625 Old Steese Highway
Fairbanks, Alaska 99701
POSITION STATEMENT: Testified on behalf of the Alaska Automobile Dealership Association on HB 182.

JOHN MECKE, Legislative Director
Franchise Affairs
Ford Motor Company
16800 Executive Plaza Drive
Dearborn, Michigan 48126
POSITION STATEMENT: Testified on HB 182.

MARK MUELLER, Manager
Retail Relationship
Daimler Motors
100 Renaissance Center
Detroit, Michigan 48265
POSITION STATEMENT: Testified on HB 182.

JIM MOORS
National Automobile Dealer Association
8400 Westpark Drive

McLeon, Virginia 99518
POSITION STATEMENT: Testified on HB 182.

WILLIAM HURST, Director
State Franchise Legislation and Strategy
Daimler Chrysler
1000 Chrysler Drive
Auburn Hills, Michigan 48326
POSITION STATEMENT: Answered a question on HB 182.

ACTION NARRATIVE

TAPE 01-57, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Representatives Murkowski, Halcro, Kott, and Crawford were present at the call to order. Representatives Meyer, Rokeberg, and Hayes arrived as the meeting was in progress.

HB 182-MOTOR VEHICLE SALES AND DEALERS

CHAIR MURKOWSKI announced that the first order of business would be HOUSE BILL NO. 182, "An Act relating to motor vehicles; and providing for an effective date."

Number 0209

REPRESENTATIVE HALCRO made a motion to adopt the proposed committee substitute (CS) for HB 182, 22-LS0239\F, Bannister, 4/6/01, as the working draft. There being no objection, Version F was before the committee.

RALPH SEEKINS, President, Seekins-Ford-Lincoln-Mercury, Inc., came forth on behalf of the Alaska Automobile Dealership Association (AADA). He stated that (AADA) had been a fairly loosely organized group until about five years ago. Some of the members are also involved in the National Automobile Dealership Association (NADA). Over time, as [the AADA] became organized, members started to say they wished they had some of the protections that the other states have as far as franchise laws and consumer issues were concerned; concurrently, he said, [the AADA] started getting letters from the Office of the Attorney General.

MR. SEEKINS stated that [members of the AADA] became aware that they did not have any legislation that existed in other states regarding consumer issues and manufacturer-dealer relationships. As a result, they asked the NADA if it had some background information. [Mr. Seekins referred to a packet of information the AADA had received from the NADA.] The AADA started then asking its members what they thought they needed to strengthen the relationships among the consumers, manufacturers, and dealers. They began bringing in piecemeal deals, and [the AADA] started searching for the basic laws that exist in the other states. Finally, the [AADA] began compiling the legislation.

Number 0459

MR. SEEKINS stated that this legislation has been in formation for two and a half years. He stated that [the AADA] started to see an unfolding of a multitude of different concerns. It started looking, with the assistance of the attorney general, at those areas where consumers needed to have more clear guidelines when dealing with their local dealers in terms of advertising and installment sales contracts. Therefore, there is a huge section [in the bill] dealing with advertising terms, because with many of the terms used regularly in the automobile industry, the buying public has no clue what they really mean. For example, he said:

> When you use the term MSRP ... it should be clearly defined - what ... that manufacturers suggested retail price [is]. And it should maybe say, "This is not necessarily the price the vehicle sells for in this marketplace." So, we've tried to roll in some of the those suggestions from across the country. ... It's not uncommon for ... [young people] to have gone into a dealership and be there until 11 o'clock at night to sign a contract that says, "Well, take it home and we'll talk about the terms tomorrow" - only to come back and find that they'd signed a one-payment contract and they were subject to huge swings in the interest rates.

MR. SEEKINS continued, stating that in reviewing the laws in other states [the AADA] found out that it is very common for family-owned dealerships to seek some kind of guarantee that if the dealer principal were to pass on, the family would have a fair shot at being able to own and operate the family-owned business without the manufacturer's being able to pull the franchise. He said there are also things that have to do with

[Alaska's] unique geographic location. Some manufacturers have recognized that and have dealt with that, while others have not. For example, he said [the AADA] felt it was only fair that if a manufacturer had an equalized destination and delivery charge for vehicles in the lower 48 states, it should be extended to Alaska.

Number 0716

MR. SEEKINS stated that there are some further defining things in [the bill]. For example, some dealers really want to know when someone ships an automobile to the dealer, whether there are potentially hazardous materials on the vehicle. He said [the AADA] thought it was only fair that the manufacturers provide the dealers with suggested handling and disposal processes. If those [disposal processes] were later found out to be improper, the manufacturer would indemnify the dealers for having followed them. He stressed that [the AADA] felt that clarifying the relationships between manufacturer and dealer is good for the manufacturers, the dealers, and the consumers. For example, in areas of warranty repair where a dealer is pushed into a situation regarding the amount of money that the manufacturer will pay the dealer to perform a repair, it encourages the dealer to rush the repair and maybe not give the same quality that he or she otherwise would have.

MR. SEEKINS said there are areas where it has become more complex to be in the automobile business, especially in the area of high technology that comes in the package of the vehicle. Therefore, he stated, training is more important. For example, Rick Morrison, an Alaska automobile dealer, will spend over $100,000 in training his employees this year. In order to get that training, he will have to send his employees out of the state. Mr. Seekins noted that [the AADA] thinks it is only fair when manufacturers provide training in other states for their dealers that they provide that same level of training for dealers in [Alaska] in order to get the same certification requirements. He stated that [Alaskan dealers] are judged on the same performance standards as dealers in the rest of the United States in terms of the customer-satisfaction index.

MR. SEEKINS remarked that the harsh weather in Alaska has a greater effect on mechanical parts in an automobile; therefore, it is very common for manufacturers to put Alaskan dealers under a program called prior approval. If expenses are high in a particular area, [the manufacturers] could require the dealers to call them and get prior approval in order to perform a repair

that a dealer in the lower 48 states might not have to get. He noted that the manufacturers typically don't staff those prior approval phone lines to the extent that the dealers can get the prior approval in reasonable time. The dealers are saying, "We're not objecting to you asking us to a prior approval, but our mechanic is waiting on the line 20 minutes to talk to somebody; pay him for the time that it takes him to do it. If it's a non-voluntary prior-approval program and you're requiring us to do that, well then, reimburse that technician, because he has to feed his family too."

Number 1129

REPRESENTATIVE CRAWFORD asked whether there was any state [the AADA] particularly patterned [the bill] after.

MR. SEEKINS responded that a lot of [the bill] came from North Carolina and Idaho.

JOHN MECKE, Legislative Director, Franchise Affairs, Ford Motor Company, came forth on behalf of Ford Motor Company and the Alliance of Automobile Manufacturers, and stated that there has been a lot of change in the business, and in recent years Ford has purchased Land Rover, Volvo, and Jaguar. [Ford Motor Company] also has a large captive credit company, Ford Credit, that does about 75 percent of its dealers' retail sales. Ford Motor Company also owns Hertz Rental Car Company, which has some implications in the bill as well. Finally, [Ford Motor Company] also owns Collision Team of America, which consists of body shops; Green Leaf, which is a recycling company; and an extended-service plan company. He added that [the alliance] is made up of all the automobile manufacturers in the company - about 13 in total.

MR. MECKE remarked that [the alliance] agrees that Alaska should not be the only state that doesn't have a franchise law to some degree. [The alliance] also agrees that these provisions should be weighed by the type of public policy impact that they have. Conversely, he said, there are some things [the alliance] has concerns about in the bill as they pertain to public policy issues. He said they are probably more purely business issues or contractual issues that are already dealt with in other ways. [Manufacturers] all have sales agreements with the dealers that are contractual arrangements that specify quite a few things that Mr. Seekins had talked about. For example, Ford Motor Company acknowledges and stipulates that in a family situation the surviving family members get the dealership. He stated that

the alliance and the manufacturers have a very strong interest in working with the dealers on coming up with the right kind of franchise bill. He emphasized that the consumer needs to be the "litmus test," and that there need to be some protections for the Alaskan business people.

Number 1630

MR. MECKE stated that he would ask the committee to assure that any focus of any franchise provisions that are considered restricted to the business activities are in accord with [the manufacturers'] relationship with their dealers. He pointed out that [Ford Motor Company] depends on its dealers and the dealers depend on [Ford Motor Company]. [Ford Motor Company] willingly has its dealers do all of its warranty work with the customers, and thinks the franchise laws should concentrate on those primary dependent relationships. He stated that a whole list of things are related to the automobile business of selling new vehicles, but [Ford Motor Company] isn't the exclusive supplier. In those areas, he said, he doesn't think franchise laws should restrict [Ford Motor Company], when other competitors that are not manufacturers and also compete in that arena are not being restricted by franchise laws.

Number 1735

MR. MECKE remarked that there are a couple of areas that he would like to sensitize the committee to. For example, [Ford Motor Company] sells extended-service plans through its dealers, but also solicits customers directly if they haven't purchased them through the dealerships. This bill, he said, prohibits that from occurring. He noted that there are some things in [the bill] that change the basic way [Ford Motor Company] does business with its dealers on the distribution of vehicles. He said he has a system whereby dealers earn the supply of vehicles based on how they turn their inventory over and how efficient they are in selling their vehicles. This bill, he said, suggests that [manufacturers] "chuck" that system and just build vehicles that are retailed for consumers without any regard to how those inventories are being turned over by various dealerships. He added that he also has incentive programs that would make it easier for a smaller dealer to get into an incentive program versus a larger dealer. Some of the provisions of the bill would eliminate the ability for a small dealer to get a certain amount of payment at a 3- or 4-unit level versus a bigger dealer that could get it at a 15- or 20-unit level.

MR. MECKE noted that some manufacturers have mandatory binding arbitration in their sales agreements, and this bill would negate that element. He pointed out that there is a federal law that encourages mandatory binding arbitration. He added that there are an awful lot of prescriptive provisions in the bill in the area of warranty. He stated that there are a number of unique circumstances in [Alaska] relative to things like training and certification; however, there are other areas where the bill gets a little bit too directive. He remarked that [Ford Motor Company] has a situation whereby its dealers, through this law, are exclusive providers of warranty, which is fine; however, it is suggested in the bill to dictate the amount of profit margin paid to the dealer of the different procedures.

Number 2074

CHAIR MURKOWSKI asked why Alaska has been the last state to put dealer protections and provisions in place.

MR. MECKE answered that he thinks it is probably because there are not that many dealers and the market areas are not that large. The original franchise laws were to protect dealers from arbitrary termination. From there, franchise law went into creating protected areas around which a dealer could protest if another dealer is added. Based on population, he said, there has never been the need [for franchise laws in Alaska]. He noted that a number of years ago Ford Motor Company bought a number of dealerships. This caused an immense amount of fear in the minds of its dealers throughout the country, because they thought [Ford Motor Company] would put them out of business.

REPRESENTATIVE HALCRO asked Mr. Mecke whether he has a fairly standard franchise agreement or if it varies per market.

MR. MECKE responded that every Ford dealer in the country basically has the same sales agreement. He said there are a few that may have a term agreement, but 99.9 percent have continuing agreements. Other manufacturers have term agreements, but they are the same for all the dealers.

REPRESENTATIVE HALCRO asked how those relate as far as competition clauses. For example, if he has agreed to have a Ford franchise and has invested millions of dollars establishing an infrastructure, but five years later his term runs out and he has to negotiate an extension, he asked whether there is a

standard method by which dealers are protected as far as competition.

Number 2320

MR. MECKE responded that [the dealer] would get another agreement at the end of the term, unless there was some violation of the agreement. In the sales agreements at Ford there is a laid-out explanation of what a market study is. He explained that [Ford Motor Company] does market studies on metropolitan areas every two to five years. They would first see a trend toward a particular area. It starts out as a monitored area growth, then goes to a future preferred location, and then it may or may not go to an "add point" (addition of dealership).

REPRESENTATIVE HALCRO asked Mr. Mecke whether he has a formula that says, "It's time to add another dealership."

MR. MECKE answered that it is very complex.

REPRESENTATIVE HALCRO asked whether there is ever a situation wherein a dealer is protected at all costs from competition. For example, he said, in Anchorage there has been one Ford dealership for 25 years. He asked at what point in time another one would be added.

MR. MECKE responded that it is not a simple answer. The worst thing he could do, he said, is cause a situation whereby adding a second dealer weakened the first dealer or both.

TAPE 01-57, SIDE B
Number 2468

MR. SEEKINS remarked that this bill basically states that even when manufacturers determine these things, there's still a checklist that they have to go through in Alaska. He remarked that [the AADA] is not precluding that; dealers would like a day in court, not to allow an arbitrary decision to be made. He remarked that Anchorage Chrysler filed a lawsuit within the last week because it was allegedly encouraged to add additional real estate, and another Chrysler dealership was granted to another party to come into the Anchorage market. That dealer, he said, would have liked to have had a checklist to say whether or not it was necessary.

MARK MUELLER, Manager, Retail Relationship, Daimler Motors, came forth and stated that he is concerned with the Internet and the brokerage area, because there are third parties trying to get into his business and work around the system. Most manufacturers, he said, have joint programs with web sites that are driving both sales and service customers to their dealers. [Manufacturers] are trying to develop those at little or no cost to the dealers, and are concerned that some of the proposed legislation might hinder them from using their internal web sites to drive customers into the dealers' showrooms.

Number 2260

JIM MOORS, National Automobile Dealer Association, came forth and stated that NADA represents new car and truck dealers in the 50 states, and has about 90 percent of the dealers as members. Dealers and manufacturers, he said, want the best relationship. He said there is a history that led to the franchise's being enacted. It started in 1936 in Wisconsin, and the issue was termination of the franchise agreement. At the time, these agreements could be terminated at will; the dealers made a sizable investment. The agreement, he said, and who holds the pen is in the manufacturers' hands. The dealer agreements contain a lot of the provisions that are in these franchise laws that are protections for the dealers. He stated that he doesn't think the manufacturers are opposed to a lot of the protections, but they can change them. Many of the protections are basic and call for good cause. None of the laws say that a dealer cannot be terminated. He remarked that in the bill there is a list of criteria that asks, "Is the addition of a new dealer in the public interest? What's the impact on competition? What's the impact on the existing dealer's investment?"

MR. MOORS stated that for the most part these are family-owned businesses around the country. When an "add point" is proposed [the dealers] have the right to say to the manufacturer, "We want a third party to decide whether that [additional dealership] is justified." The manufacturers come in with their statistics and their demographics, and they make their case to the hearing body. If they can show that Anchorage has grown in population and there needs to be another Ford dealership, it is approved. He remarked that in the protests that have been filed for additional dealer points, maybe 10 percent have resulted in the additional dealer's being denied.

Number 2099

MR. MOORS explained that the successor issue is another issue that is very important. This has been agreed upon, and it is in the contract that the dealership should be passed on to the son or daughter or to management, provided that the person is qualified. This bill would codify this protection. He stated that there is a lot of pressure put on dealers from time to time for exclusive facilities or to upgrade facilities. He stated that this is an incredibly competitive market; manufacturers compete, and the competitive pressures at that level filter down to the dealers, which can result in requests and encouragement to build brand-new facilities because other manufacturers are doing so. Under the bill there is limited protection whereby the dealer has the right to protest those types of requests. He noted that this bill is not much different other states' [bills] on the core areas such as termination, exclusivity, and successorship.

REPRESENTATIVE HAYES asked what the [the committee's] plan is with this bill.

CHAIR MURKOWSKI responded that it would be her intention to appoint a subcommittee.

MR. SEEKINS stated that [the AADA] thinks there is a good foundation [with the bill], and would like to keep it moving.

REPRESENTATIVE ROKEBERG asked how this bill addresses the issue of consolidation.

MR. SEEKINS responded that the bill does not give the manufacturers any force to consolidate, nor does it give them any ability to restrict consolidation.

REPRESENTATIVE ROKEBERG stated that he thinks the best example would be when Daimler Benz purchased Chrysler, where there was a Mercedes dealer, a Chrysler dealer, and then the residual company. There could then be three potential dealerships in one marketplace. He asked whether the manufacturer would be able to kick out the additional product lines because they would come under the umbrella of that manufacturer.

Number 1713

WILLIAM HURST, Director, State Franchise Legislation and Strategy, Daimler Chrysler, came forth and stated that his company has a program called Project 2000, which is designed to put the Chrysler-Plymouth stores with the Jeep stores. That is

done through negotiations agreements with the dealers. In terms of the Mercedes situation, the market plan is to not put Mercedes and Chrysler-Jeep together. He added that there are a lot of significant problems with the bill, but he thinks they can be worked out.

REPRESENTATIVE HALCRO remarked that he wouldn't mind chairing the subcommittee.

CHAIR MURKOWSKI stated that she and Representative Hayes would work on the subcommittee as well.

[HB 85 was held over.]

CHAIR MURKOWSKI announced at 4:32 p.m. that the House Labor and Commerce Standing Committee was recessed to a call of the chair.

TAPE 01-58, SIDE A
Number 0001

CHAIR MURKOWSKI reconvened the House Labor and Commerce Standing Committee at 7:13 p.m. Members present at the call to order were Representatives Murkowski, Halcro, Meyer, Rokeberg, Crawford, and Hayes. Representative Kohring was also in attendance.

HB 225-ALCOHOLIC BEVERAGE TAX

[Contains discussion of HB 3, HB 132, and HB 4.]

CHAIR MURKOWSKI announced that the committee would now take up HOUSE BILL NO. 225, "An Act relating to municipal taxation of alcoholic beverages and increasing the alcoholic beverage tax rates." [Before the committee was a proposed committee substitute (CS) Version L, 22-LS0806\L, Cook, 4/9/01, adopted as a work draft on 4/9/01.]

CHAIR MURKOWSKI speaking also as the sponsor, informed the committee that the public hearing on HB 225 had been closed at the April 10, 2001, hearing. She announced her intention to move this bill from committee today. She reminded the committee that Representative Rokeberg had an amendment that he intended to introduce. She pointed out that the committee had received an outline entitled "Economic Costs Estimate for Alaska: Negative Consequences of Alcohol Abuse and Dependence," which specifies where the $250 million comes from. Additionally, the

committee should have a packet of written testimony that was received since the last hearing.

Number 0240

REPRESENTATIVE ROKEBERG made a motion to adopt Amendment 1 [22-LS0806\L.2, Cook, 4/11/01], which read:

> Page 2, line 9:
> Delete "Every"
> Insert "**Except as provided in (c) of this section, every** [EVERY]"
>
> Page 2, following line 20:
> Insert a new bill section to read:
> "*** Sec. 4.** AS 43.60.010 is amended by adding a new subsection to read:
> (c) A brewer shall pay a tax at the rate of 35 cents a gallon on sales of the first 120,000 barrels of beer sold in the state each fiscal year beginning July 1, 2001, for beer produced in the United States if the producing brewery meets the qualifications of 26 U.S.C. 5051(a)(2). To qualify for the tax rate under this subsection, the brewer must file with the department a copy of a Bureau of Alcohol, Tobacco and Firearms acknowledged copy of the brewer's Notice of Brewer to Pay Reduced Rate of Tax required under 27 C.F.R. 25.167 for the calendar year in which the fiscal year begins for which the partial exemption is sought. If proof of eligibility is not received by the department before June 1, the tax rate under this subsection does not apply until the first day of the second month after the month the notice is received by the department. For purposes of applying this subsection, a barrel of beer may contain no more than 31 gallons."

REPRESENTATIVE HALCRO objected.

REPRESENTATIVE ROKEBERG explained that Amendment 1 includes a provision that would allow for an exemption of any increase in tax above the current 35 cents a gallon on the first 120,000 barrels of beer sold be a local manufacturer or brewery. This amendment is consistent with federal law and the provisions in the Bureau of Alcohol, Tobacco, and Firearms regulations that allow a partial exemption for a local manufacturer while requiring that anyone considered a small brewery, 2 million

barrels, be allowed the same exemption for importation into Alaska from the other 49 states. This would exclude any foreign-brewed beer.

Number 0360

REPRESENTATIVE ROKEBERG explained that the purpose of Amendment 1 is to foster the development of breweries and brewpubs in Alaska. This provision is modeled after the State of Washington's provision, except that the Washington statute as well as the standard provision in federal law is limited to 60,000 barrels of beer. Representative Rokeberg explained that he chose to limit this to 120,000 barrels because it relates to the largest manufacturer of beer in Alaska. The Alaskan Brewing Company, with its new expansion, is projected to either reach [120,000 barrels] or come close. Representative Rokeberg commented that the Alaskan Brewing Company has done a marvelous job of identifying Alaska [with its beer] and has created significant economic activity in Juneau and throughout the state.

REPRESENTATIVE ROKEBERG related his understanding that this would comprise less than 15 percent of the total importation and consumption of malt beverages in Alaska. Therefore, it would have a modest effect on any revenue derived from this legislation. Furthermore, this acknowledges the state policy of fostering economic development in the state.

REPRESENTATIVE HALCRO related his understanding that this would refer to Alaskan brewers as well as those outside the state. Therefore, he inquired as to whom that would include.

REPRESENTATIVE ROKEBERG answered that he believes it would include, for example, the Seattle microbreweries that already sell in Alaska. Therefore, those that meet the federal regulation of less than 2 million barrels would qualify and thus be exempt from any increase in tax above 35 cents.

REPRESENTATIVE HALCRO inquired as to how one would apply for this tax exemption. Furthermore, he inquired as to what checks and balances are in place to ensure that one doesn't exceed the limit.

REPRESENTATIVE ROKEBERG surmised that there is an application. He related his belief that the Department of Revenue would have to establish that policy.

Number 0579

CHAIR MURKOWSKI remarked that the 60,000-barrel [limit] in the federal statute seems to have some justification. However, she said that she wasn't able to make the leap [under Amendment 1] to the 120,000 [barrel limit] other than [the fact that] the Alaskan Brewing Company, the largest brewer, is almost at that figure. She asked whether her understanding was correct.

REPRESENTATIVE ROKEBERG answered it was.

CHAIR MURKOWSKI inquired as to the next-largest brewers in the state and the levels they are at.

REPRESENTATIVE ROKEBERG surmised from the testimony that [the largest brewers] are the Moose's Tooth and the Silver Gulch, both of which are not even approaching 150,000 gallons.

REPRESENTATIVE HALCRO specified that the Moose's Tooth brews about 65,000 to 70,000 gallons and the Silver Gulch brews about 60,000 gallons.

REPRESENTATIVE ROKEBERG recalled that [a representative from the Moose's Tooth] testified that if it could service outside accounts under a beverage dispensary license, then it would approach 120,000 gallons.

REPRESENTATIVE HALCRO said that [the next-largest brewers] were the Moose's Tooth, Glacier Brewhouse, and then the Silver Gulch. The next-largest brewer [after those] brewed about 20,000 gallons, and thus there is a fairly big difference.

REPRESENTATIVE ROKEBERG remarked that the only brewer that would benefit at this juncture would be the Alaskan Brewing Company. However, he noted that one can't predict the future.

CHAIR MURKOWSKI expressed her wish that [the legislation] didn't have to provide "this reciprocity" but rather could specifically address beer produced in Alaska. She agreed that this is a fledgling industry that is growing and employing Alaskans. Although she didn't object to helping with that, she expressed the need to recognize that this also helps those microbreweries from outside the state. Therefore, Chair Murkowski questioned whether the increase to 120,000 barrels really helps Alaskan brewers or the outside microbrewers. Chair Murkowski announced that she objected to Amendment 1 with the 120,000 barrels and

thus noted she would be amenable to amending Amendment 1 to refer to 60,000 barrels in order to reflect the federal statute.

REPRESENTATIVE ROKEBERG said that he stood by his amendment, although he acknowledged that a smaller cap might be helpful from an economic standpoint because it would give a distinct advantage to some other outside microbreweries. The argument can be made in both directions.

REPRESENTATIVE HAYES asked Representative Rokeberg whether he was agreeing that 60,000 barrels would be more competitive for Alaskan companies.

Number 0912

CHAIR MURKOWSKI moved that the committee adopt the following amendment to Amendment 1, which would change "120,000" to "60,000" in the new subsection (c).

REPRESENTATIVE ROKEBERG objected.

A roll call vote was taken. Representatives Halcro, Crawford, Hayes, and Murkowski voted for the amendment to Amendment 1. Representatives Meyer and Rokeberg voted against it. [Representative Kott was absent for the vote.] Therefore, the amendment to Amendment 1 was adopted by a vote of 4-2.

CHAIR MURKOWSKI asked if there was any objection to Amendment 1 as amended. There being no objection, Amendment 1 as amended was adopted.

Number 1052

REPRESENTATIVE HAYES moved that the committee adopt the following conceptual Amendment 2:

Page 2, line 15, after "beverages",
Insert "and hard cider"

CHAIR MURKOWSKI related her understanding that malt beverages and hard cider would be in the same category.

REPRESENTATIVE MEYER objected.

REPRESENTATIVE HAYES, in response to Representative Meyer's objection, explained that hard cider is packaged like beer and looks like beer. However, it is classified as a wine and thus

he felt that hard cider should be classified the same as beer. Hard cider has the same alcohol content as malt beverages.

CHAIR MURKOWSKI noted that committee members should have received information regarding what is happening in other states. Apparently, the trend is to change the classification of hard cider from wine to beer. Chair Murkowski related her belief that the tax probably doesn't matter because it's not a very potable drink.

Number 1196

REPRESENTATIVE MEYER withdrew his objection.

REPRESENTATIVE HALCRO asked if the drafters should be provided a definition of hard cider to include in statute because without a definition it could be debatable.

CHAIR MURKOWSKI remarked that she was certain there is some definition for malt beverage. She pointed out that this is a conceptual amendment, which should afford the drafter the ability to pen clarifying language, if necessary.

REPRESENTATIVE HAYES mentioned that he had language, if it was needed.

CHAIR MURKOWSKI asked if there was any further discussion or objection to conceptual Amendment 2. There being none, conceptual Amendment 2 was adopted.

Number 1280

REPRESENTATIVE ROKEBERG moved that the committee adopt conceptual Amendment 3, to would delete Sections 1 and 2 of [version L].

CHAIR MURKOWSKI objected.

REPRESENTATIVE ROKEBERG related his belief that these two provisions do several things that are contrary to the best interest of state policy. For example, these [provisions] remove the state's ability to directly tax the wholesale levels of alcohol, which he believes should fall under the state's purview. Representative Rokeberg expressed his concern about giving municipal governments greater freedom to impose special alcohol taxes. He pointed out that the Municipality of Anchorage rejected this concept by election and has continued to

illustrate its [opposition] to any type of sales tax. Representative Rokeberg reiterated that it's not in the best interest of the state to devolve its taxing power to municipal governments.

CHAIR MURKOWSKI noted that a couple years ago the portion Representative Rokeberg is seeking to delete came before the House Community and Regional Affairs Standing Committee [through] Representative Davis, and at that time she supported it. Although she still feels that it makes sense, she expressed concern "that you're going to have this dime-a-drink thing and then the municipalities or the city can then turn around and give us a double whammy, and then we really, really, really will be hurt." She emphasized that it is not her intent to drive anyone out of business or leave hard-working Alaskans without a job. Although she still feels that this provision makes sense, perhaps the timing of it is creating too much paranoia in the minds of the Alaskans in this industry, to which she is sensitive. Therefore, although she would like for everything to remain [in the bill], she reiterated that she is conscious of messages that would place fear in the hearts of working Alaskans. She concluded by saying that she would probably support conceptual Amendment 3.

REPRESENTATIVE HALCRO agreed with Chair Murkowski. As discussed at the prior hearing, this tax is not an attempt to demonize those who sell alcohol but rather it attempts to recoup revenue in order to defer some of the costs that this product causes for state government. Since the state is paying most of the costs of alcohol-related problems, Representative Halcro said that he would not have a problem eliminating the ability for municipalities to take it upon themselves to tax without proper precautions. Therefore, Representative Halcro announced that he would also support conceptual Amendment 3.

CHAIR MURKOWSKI withdrew her objection and asked if there was any further objection to conceptual Amendment 3. In response to Representative Meyer, Chair Murkowski explained that with the adoption of conceptual Amendment 3, only Section 3 and the new Section 4 would remain, which would be renumbered.

REPRESENTATIVE ROKEBERG pointed out that the adoption of conceptual Amendment 3 would require a title change.

CHAIR MURKOWSKI announced that the committee had adopted conceptual Amendment 3.

Number 1769

REPRESENTATIVE MEYER inquired as to where the dollar amounts for each type of beverage were derived.

CHAIR MURKOWSKI explained that 10 cents a drink was added to the existing tax; that was done for all three categories. Chair Murkowski noted that [the legislature] has no control over the markup that the industry would impose. This is the tax imposed when the product leaves the bonded warehouse. Therefore, she agreed that the retailer may absorb that tax or pass it on to the consumer.

Number 1829

REPRESENTATIVE HAYES expressed his desire to see a statutory designation for this new money to be used for alcohol rehabilitation programs or as a piece in the long-term fiscal plan. From the testimony, Representative Hayes said he understood that people don't want this money to go into [the general fund]. Therefore, he felt it would behoove the [House Finance Committee members] to use this revenue for alcohol rehabilitation programs or to openly admit that this revenue will go towards the long-term fiscal plan.

CHAIR MURKOWSKI pointed out that without an amendment to the Alaska State Constitution, the legislature can't dedicate revenue.

REPRESENTATIVE HAYES interjected that there could be a statutory designation.

REPRESENTATIVE ROKEBERG mentioned that this revenue could be treated as was the tobacco tax, which was placed in the school fund that is one of the few remaining pre-statehood dedicated funds. He related his belief that the tobacco tax was placed into the school fund largely to garner support for the legislation. However, this is a tax. He pointed out that this isn't a tax to increase treatment for those in Alaska or to enforce a 0.08 blood alcohol level or deal with minors in possession. He said, "The nexus between our constitution and our general fund, if we raise this tax, is not there." He remarked that this bill, even as amended, is extremely regressive. He said that 300 percent increase in all categories is too much. It makes no sense from a business standpoint, and it is a tax.

REPRESENTATIVE ROKEBERG informed the committee that the House Finance Committee had passed HB 3, which will provide an additional $40 million in general funds this fiscal year. Therefore, the money for the alcohol package can be taken from that as well as money for treatment. He recalled that one of the argument the committee has heard is the elasticity of demand, which is that as prices increase, consumption decreases. However, the committee heard that alcohol prices had increased to extraordinary amounts when they heard the bootleg bill, HB 132. He related his belief that in the areas where many problems occur, there is not much elasticity. He didn't believe that the price elasticity argument worked when speaking of [alcoholics]. Representative Rokeberg remarked that Alaska's drinking patterns are a little different from those in the Lower 48. He expressed the need for more treatment and more money for treatment. However, he has trouble supporting this tax, although he announced that he would support legislation for increased taxation on the alcohol industry but not a 300 percent increase, which is too high. He likened this to the Volstead Act and the endeavor to prevent the consumption of alcohol.

Number 2065

REPRESENTATIVE ROKEBERG informed the committee that he voted for the tobacco tax because he didn't believe there was no redeeming value for tobacco. However, the use of alcohol can have medicinal and healthful benefits if it used responsibly. Therefore, the problem in Alaska is that alcohol is abused. He recalled that in 75 or 80 dry communities in Alaska bootlegging goes on. In those communities, raising the price will have no impact. He expressed his concern with the possibility of shifting alcohol [problems] to drug [problems] because the drugs are cheaper than the alcohol.

REPRESENTATIVE ROKEBERG reiterated that he would support a reasonable tax. However, he didn't believe that this bill embodied a reasonable tax due to the 300 percent increase. Furthermore, he believes that the industry's testimony has indicated that it, too, would agree to a modest increase. Representative Rokeberg pointed out that the information the committee has received indicates that an inflation-adjusted amount from the last increase equals about $5.3 million. Therefore, he said that he would be more comfortable with [a tax] in that range. In conclusion, Representative Rokeberg reiterated that he would have to oppose this bill because it is bad public policy at this time, and furthermore, as a Republican, he doesn't like taxes.

Number 2149

REPRESENTATIVE HALCRO noted that he didn't disagree with anything Representative Rokeberg said. However, some of Representative Rokeberg's comments actually made the case for an increase in this tax. This tax hasn't been raised since 1983, 18 years, which alone isn't reason to raise the tax. However, the money that the state spends on alcohol-related problems does justify an increase in the tax. Furthermore, if there is no effect on the increase in price, then the point for [increasing the tax] has been made because [binge drinkers] cost the state more. He pointed out that if the elasticity has an effect on underage drinking, it would be beneficial to raise this tax.

REPRESENTATIVE HALCRO said that he understood where some of these bar owners are coming from because he is in an industry that was faced with a tax [increase] last year. He said, "It's not fair for my customers to pay a tax simply so unrelated people can have the benefits. But the fact is, there's no such thing as a perfect tax." However, there is the fact that the state spends more money each year on the cost of alcohol-related illnesses. He stressed that everyone in the state pays for these, and thus he didn't believe it is too unfair to ask for an additional contribution. Even with this tax, Representative Halcro said he had difficulty believing that anyone would be driven out of business; he did believe that it would affect underage drinkers and perhaps even deter them as well as provide additional revenue to help fund some of the social service programs that are used to pay for the effects of alcohol. In conclusion, he emphasized that this is a user tax.

Number 2349

REPRESENTATIVE MEYER inquired as to how much revenue this legislation, with the new Section 4, would generate.

REPRESENTATIVE ROKEBERG answered that he didn't think it would be significant and estimated that it wouldn't be more than a couple hundred thousand dollars a year.

CHAIR MURKOWSKI, in response to Representative Meyer, said that before the amendment, the Department of Revenue estimated that the revenue would be between $28 and $30 [thousand].

REPRESENTATIVE MEYER agreed that alcohol creates a lot of costs to government. However, he believes that 10 percent of the

people are causing 90 percent of the problems related to alcohol. Therefore, he indicated the need to deal with those 10 percent, which he believes would be dealt with under HB 4. Frankly, the only way to decrease these costs to society is to get those with serious drinking problems into treatment. Therefore, he stated that he favors wellness and therapeutic courts, and tough DWI (driving while intoxicated) laws rather than taxation. He did express concern that the tax would effect [social] drinkers, who aren't the people causing the problem. He agreed that an increase was needed, but he, too, wasn't sure that a 300 percent increase was necessary.

TAPE 01-58, SIDE B

REPRESENTATIVE HAYES remarked that the House Finance Committee will make the actual dollar call. Therefore, he suggested that people discuss financial concerns with House Finance Committee members.

REPRESENTATIVE CRAWFORD related his belief that this is a step in the right direction, because there are many problems caused by the consumption of alcohol. He emphasized that he concurred with raising the alcohol tax because he believes it is necessary for treatment, education, and prevention.

REPRESENTATIVE ROKEBERG said that it's important for people to realize that if he purchases a bottle at a local liquor store, 75 cents of that will go to the Department of Environmental Conservation to close down the Red Dog Mine, because where the money goes can't be controlled. He said that he didn't like that.

Number 2339

CHAIR MURKOWSKI noted that she has "taken some hits" on the amount [of this tax]. Therefore, she pointed out that there is logic behind the number, which has been compromised considerably. She noted that a Criminal study said that the number one thing to do would be to raise the excise tax on alcohol. Chair Murkowski pointed out that alcohol is a legal drug and there are reasons why it is treated differently than soda.

CHAIR MURKOWSKI acknowledged what the alcohol industry is doing in order to be responsible with its product. She did believe the industry is doing a good job in dealing with a legal drug

that causes people to do dangerous things when they use it irresponsibly.

CHAIR MURKOWSKI, in conclusion, said those who choose to drink have an obligation and possible consequences, which may include a greater financial burden. She recalled a witness who spoke of the Hickel philosophy of "owner state". That witness reminded Chair Murkowski that currently everyone is paying the price of alcohol.

REPRESENTATIVE HALCRO recalled an overriding theme of the testimony, which was that this tax won't solve the problem. To that, he emphasized that the tax is to help address paying for the problem. For example, there is a gas tax that doesn't prevent potholes but rather goes into a fund to help pay for the repair of roads. Therefore, although the alcohol tax increase won't solve all the problems, it will help pay for the costs.

Number 2080

REPRESENTATIVE HAYES made a motion to move CSHB 225 [22-LS0806\L, Cook, 4/9/01], as amended, out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE ROKEBERG objected.

A roll call vote was taken. Representatives Hayes, Halcro, Crawford, and Murkowski voted to move CSHB 225 [22-LS0806\L, Cook, 4/9/01], as amended, from committee. Representatives Meyer and Rokeberg voted against it. [Representative Kott was absent for the vote.] Therefore, the motion to move CSHB 225(L&C) from the House Labor and Commerce Standing Committee carried by a vote of 4-2.

REPRESENTATIVE ROKEBERG gave notice of reconsideration of his vote on HB 225.

REPRESENTATIVE ROKEBERG moved that the committee adjourn.

[HB 225 was held over. It was later determined that notice of reconsideration cannot be served in a committee, and thus at the April 18, 2001, hearing CSHB 225(L&C) moved from the House Labor and Commerce Standing Committee.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 8:11 p.m.