

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 1, 2002

3:20 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

COMMITTEE CALENDAR

HOUSE BILL NO. 399

"An Act relating to the Uniform Mechanical Code and other safety codes; annulling certain regulations adopted by the Department of Community and Economic Development relating to the mechanical code that applies to certain construction contractors and mechanical administrators; and providing for an effective date."

- MOVED CSHB 399(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 504

"An Act relating to the wages of people working in the fisheries business."

- MOVED CSHB 504(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 472

"An Act relating to persons who buy and sell secondhand articles and to certain persons who lend money on secondhand articles."

- MOVED CSHB 472(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 443

"An Act retroactively extending the application and licensing deadlines and amending the effective date of certain provisions relating to regulation of persons who practice tattooing and

permanent cosmetic coloring or body piercing; and providing for an effective date."

- MOVED CSHB 443(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 448

"An Act relating to establishing a data base of residential telephone customers who do not wish to receive telephone solicitations, providing that the data base be compiled at no cost to the customers, requiring telephone solicitors to purchase the data base, and requiring paid solicitors to register; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE JOINT RESOLUTION NO. 38

Relating to urging the United States Congress to pass the Terrorism Risk Protection Act.

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: HB 399

SHORT TITLE:UNIFORM MECHANICAL CODE

SPONSOR(S): RLS BY REQUEST OF ADMIN REGULATION REVIEW

Jrn-Date	Jrn-Page		Action
02/11/02	2204	(H)	READ THE FIRST TIME - REFERRALS
02/11/02	2204	(H)	L&C
03/01/02		(H)	L&C AT 3:15 PM CAPITOL 17
03/01/02		(H)	Heard & Held MINUTE(L&C)
03/15/02		(H)	L&C AT 3:15 PM CAPITOL 17
03/15/02		(H)	Heard & Held MINUTE(L&C)
04/01/02		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 504

SHORT TITLE:WAGES FOR WORKERS IN FISHERIES

SPONSOR(S): RLS

Jrn-Date	Jrn-Page		Action
03/15/02	2547	(H)	READ THE FIRST TIME - REFERRALS
03/15/02	2547	(H)	L&C

03/25/02	(H)	L&C AT 3:15 PM CAPITOL 17
03/25/02	(H)	Heard & Held MINUTE(L&C)
03/27/02	(H)	L&C AT 3:15 PM CAPITOL 17
03/27/02	(H)	-- Meeting Canceled --
04/01/02	(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 472

SHORT TITLE: PAWNBROKERS/SECONDHAND DEALERS

SPONSOR(S): REPRESENTATIVE(S) GREEN

Jrn-Date	Jrn-Page		Action
02/19/02	2315	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2315	(H)	L&C, JUD
03/04/02		(H)	L&C AT 3:15 PM CAPITOL 17
03/04/02		(H)	Heard & Held MINUTE(L&C)
04/01/02		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 443

SHORT TITLE: TATTOOING AND BODY PIERCING

SPONSOR(S): REPRESENTATIVE(S) KOHRING

Jrn-Date	Jrn-Page		Action
02/15/02	2288	(H)	READ THE FIRST TIME - REFERRALS
02/15/02	2288	(H)	L&C
03/25/02		(H)	L&C AT 3:15 PM CAPITOL 17
03/25/02		(H)	Bill Postponed To 3/27
03/27/02		(H)	L&C AT 3:15 PM CAPITOL 17
03/27/02		(H)	-- Meeting Canceled --
04/01/02		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

CATHERINE REARDON, Director
 Division of Occupational Licensing
 Department of Community & Economic Development
 PO Box 110806
 Juneau, Alaska 99811-0806

POSITION STATEMENT: Answered questions relating to HB 399.

KRIS NOROSZ
 Icicle Seafoods
 PO Box 1147
 Petersburg, Alaska 99833

POSITION STATEMENT: Testified in support of HB 504 [Version L].

RICHARD MASTRIANO, Director
Division of Labor Standards and Safety
Department of Labor and Workforce Development
PO Box 107021
Anchorage, Alaska 99510-7021

POSITION STATEMENT: Answered questions relating to HB 504 on behalf of the division.

DON ETHERIDGE, Lobbyist
for Alaska State AFL-CIO
710 West Ninth Street
Juneau, Alaska 99801

POSITION STATEMENT: Testified in opposition to HB 504.

ED FLANAGAN, Commissioner
Department of Labor and Workforce Development
PO Box 21149
Juneau, Alaska 99802-1149

POSITION STATEMENT: Answered questions relating to HB 504.

LAURA ACHEE, Staff
to Representative Joe Green
Alaska State Legislature
Capitol Building, Room 403
Juneau, Alaska 99801

POSITION STATEMENT: Testified on HB 472 on behalf of Representative Green, sponsor.

DAVID HUDSON, Captain
Division of Alaska State Troopers
Department of Public Safety
5700 East Tudor Road
Anchorage, Alaska 99507-1225

POSITION STATEMENT: Answered questions relating to HB 472.

SHARRON O'DELL, Staff
to Representative Vic Kohring
Alaska State Legislature
Capitol Building, Room 24
Juneau, Alaska 99801

POSITION STATEMENT: Presented HB 443 on behalf of Representative Kohring, sponsor.

MARY SIROKY, Manager
Information Education & Coordination

Division of Statewide Public Service
Department of Environmental Conservation (DEC)
410 Willoughby, Suite 303
Juneau, Alaska 99801

POSITION STATEMENT: Testified in regard to the public notice related to HB 443.

TODD GIPSON

Two Moons Tattooing
44720 Sterling Highway
Soldotna, Alaska 99669

POSITION STATEMENT: Asked who [HB 443] addresses.

LAURA IVANOFF

Two Moons Tattooing
44720 Sterling Highway
Soldotna, Alaska 99669

POSITION STATEMENT: Testified on the grandfather rights relating to the regulation of tattooers and hairdressers.

JOE SCHOOLCRAFT, Owner

Two Moons Tattooing
44720 Sterling Highway
Soldotna, Alaska 99669

POSITION STATEMENT: During hearing on HB 433, testified that it isn't fair to those who worked through the process [under SB 34].

JEFF MACAMBER

112 North Turner Street
Fairbanks, Alaska 99701

POSITION STATEMENT: Testified in support of HB 443.

GAIL McCANN, Owner/Operator

The Electrolysis Clinic
537 Lee Drive
Fairbanks, Alaska 99709

POSITION STATEMENT: Testified in support of HB 443.

KEVIN McKINLEY, Owner

Body Piercing Unlimited
112 North Turner Street
Fairbanks, Alaska 99701

POSITION STATEMENT: Testified that HB 443 is a good thing.

JEFFERY MARTIN

Muttley's Tattoo Clinic

224 North Yenlo, Suite 3B
Wasilla, Alaska 99654

POSITION STATEMENT: Testified that he only wants an extension of the application period [as specified in HB 443].

ANDY KOPCZENSKI
American Tattoo
HC89 Box 259
Willow, Alaska 99688

POSITION STATEMENT: Testified that he thinks HB 443 looks good and offered that a six-month extension of the application period won't hurt anyone.

ACTION NARRATIVE

TAPE 02-45, SIDE A
Number 0001

CHAIR LISA MURKOWSKI called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Murkowski, Halcro, Meyer, Rokeberg, and Hayes were present at the call to order. Representatives Kott and Crawford arrived as the meeting was in progress.

HB 399-UNIFORM MECHANICAL CODE

[Contains discussion pertaining to HB 436 and HB 437]

CHAIR MURKOWSKI announced that the first order of business before the committee would be HOUSE BILL NO. 399, "An Act relating to the Uniform Mechanical Code and other safety codes; annulling certain regulations adopted by the Department of Community and Economic Development relating to the mechanical code that applies to certain construction contractors and mechanical administrators; and providing for an effective date." [HB 399 was sponsored by the House Rules Standing Committee by request of the Joint Committee on Administrative Regulation Review.]

Number 0226

REPRESENTATIVE ROKEBERG, speaking as the chair of the mechanical code subcommittee, informed the committee that by a vote of 2-1, the subcommittee had amended Version F. There was a new Version J, which the subcommittee recommended to the full committee. Version J amends AS 08.40.490(3) so that reference to the Uniform Mechanical Code is deleted and the division is directed

to refer to the mechanical code adopted by the Department of Public Safety (DPS); it annuls the regulations adopted by the Division of Occupational Licensing - 12 AAC 21.990(7) and 12 AAC 39.992(b); from the effective date through December 31, 2003, it permits applicants for a mechanical administrator's license to be tested on either the 1997 edition of the Uniform Mechanical Code (UMC) or the 2000 edition of the International Mechanical Code (IMC) - applicant's choice; and it adds an immediate effective date.

REPRESENTATIVE ROKEBERG noted that the Division of Occupational Licensing currently administers the [IMC exam] and would check on the costs to go back to the old [UMC]. He stated, "At the time, the contracted test service only charged \$100 for the '97 UMC to be taken." He surmised that there shouldn't be any problem with doing that again, but said it hadn't been verified.

Number 0435

REPRESENTATIVE ROKEBERG moved to adopt CSHB 399, version 22-LS1461\J, Bannister, 3/28/02, as the working document. There being no objection, Version J was before the committee.

Number 0467

CHAIR MURKOWSKI asked what will happen after December 31, 2003, because up to that date an applicant can choose either the UMC exam or the IMC exam.

REPRESENTATIVE ROKEBERG explained that the Division of Occupational Licensing will administer the IMC [exam], unless the legislature changes that.

Number 0505

CHAIR MURKOWSKI said it wasn't clear to her in reading through [HB 399] what will happen after year-end 2003. She asked if HB 436 and HB 437 were still being reviewed.

REPRESENTATIVE ROKEBERG explained, "Section 1 indicates it's the code adopted by the Department of Public Safety at that time, and then the uncodified law in Section 3 explains how the process is to be done. It defaults in Section 1 back to the IMC."

Number 0558

CHAIR MURKOWSKI said it's "less than clear."

REPRESENTATIVE ROKEBERG offered that it is because of the way it's drafted. He noted that the UMC has been taken out of Section 1 and that new language has been added: "and the mechanical code adopted by the Department of Public Safety under AS 18.70.080;". Currently, the adopted codes are IMC codes. He referred to Section 3, which explains the timeframe and gives direction to the Division of Occupational Licensing as to the election of either examination by the applicant.

CHAIR MURKOWSKI asked if the Division of Occupational Licensing had confirmed whether the 1997 [UMC] test would be available.

REPRESENTATIVE ROKEBERG said that is the only question outstanding at this juncture.

Number 0620

CATHERINE REARDON, Director, Division of Occupational Licensing, Department of Community & Economic Development, informed the committee that the division has asked "the contractor" and hasn't received an answer. She said the Division of Occupational Licensing was offering the [1997 exam] as recently as September.

REPRESENTATIVE ROKEBERG asked if the administration fee for the 1997 UMC exam was \$100.

MS. REARDON replied in the affirmative, adding that the division also charges \$100 for the IMC test. In further reply, she said the contractor charges the division \$100. The fee was \$75 under the last contract. The reason the contractor charges the division for rewriting the exam is because the contractor doesn't make enough from the \$100 fees.

Number 0704

REPRESENTATIVE ROKEBERG asked Ms. Reardon if she would "feel bad" about negotiating with the contractors for re-establishing the 1997 UMC exam for \$100.

MS. REARDON said she doesn't have any problem asking the contractors to do that. She speculated that it wouldn't be too difficult for the division to offer [applicants] the choice. There is the public policy question for the legislature to

determine whether or not the division should be testing on both [sets of mechanical codes] if only one is in effect.

Number 0739

CHAIR MURKOWSKI asked when the new, revised UMC test will be released.

MS. REARDON explained that the test revisions were triggered by the division's asking the testing company to revise the exam. The code updates occur every three years. She said the initial price in the fiscal note - \$40,000 - was a result of the division's asking the testing company what it would cost to write an exam for the 2000 UMC. She speculated that the testing company could do that now, but that the 1997 exam is probably still available.

Number 0797

REPRESENTATIVE ROKEBERG asked if the testing process to become a mechanical administrator requires a one-time test, with continuing education to follow.

MS. REARDON replied in the affirmative. She added that [a person who lets his/her license] lapse without renewal will have to retake the exam.

Number 0879

REPRESENTATIVE HAYES stated his concern over "what the practice is versus what's in statute," and said a lot of communities are currently doing work against the statutes. He offered that there is "a lot of work being done under the ICBO [International Conference of Building Officials], but in our statutes we have a totally different book that we have in law."

REPRESENTATIVE ROKEBERG said the IMC, which is part of the regulations adopted by the DPS, is now the state standard and is also the ICBO standard. He stated, "We are working on another bill to try to resolve this."

Number 0960

REPRESENTATIVE HAYES asked if there is "a lot of work" that has been done using a different method than what is in the current statutes.

REPRESENTATIVE ROKEBERG replied in the negative and asked if Representative Hayes was referring to work done under the IMC or the UMC.

REPRESENTATIVE HAYES replied, "The international."

REPRESENTATIVE ROKEBERG said the IMC has now been adopted by the State of Alaska as the standard.

REPRESENTATIVE HAYES responded, "In regulation but not in statute. Isn't that the whole argument of why we have [HB 399]?"

Number 1069

REPRESENTATIVE ROKEBERG moved to adopt Amendment 22-LS1461\J.1, Bannister, 3/28/02, which read:

Page 2, following line 6:

Insert a new bill section to read:

*** Sec. 2.** AS 18.56.300(e)(3) is amended to read:

(3) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the mechanical code [VERSION OF THE UNIFORM MECHANICAL CODE] adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the minimum plumbing code adopted for the state under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580."

Renumber the following bill sections accordingly.

REPRESENTATIVE ROKEBERG explained that Amendment J.1 would clarify those provisions that relate to AHFC [Alaska Housing Finance Corporation]. Referring to AS 18.56.300(e)(3), he said the amendment would adopt a "generic" mechanical code and delete the specific reference to a "version of the Uniform Mechanical Code." He explained that this would default back to the Department of Public Safety's adoption by regulation. He offered that as a matter of policy he doesn't want to leave [the issue] out there as a regulatory matter.

Number 1080

REPRESENTATIVE HALCRO objected for the purpose of discussion. He said this amendment wasn't discussed in the subcommittee; he asked Representative Rokeberg to explain further.

REPRESENTATIVE ROKEBERG explained that there are some specific references in the AHFC statute to the UMC. Through adoption of Amendment J.1, the statute reverts to generic language. He explained that if DPS were to change the code adopted, then this would automatically change also, without having to change the statute again. He noted that AHFC had requested this amendment; it wasn't discussed in the subcommittee because he was approached by AHFC after the meeting on this specific matter.

Number 1184

CHAIR MURKOWSKI said it seems to make sense based on testimony heard from Mr. Bitney. She said [Amendment J.1] clears up ambiguity in this particular statute, but asked if there are any "loose ends" in other areas of the statute.

REPRESENTATIVE ROKEBERG responded that the primary issue is whether adoption of the building codes should become a legislative issue or should be "bequeathed ... to the departments." He explained that currently the Department of Labor and Workforce Development and DPS are both adopting [regulations] under statutory authority. He said the subcommittee is working on trying to bring that together under a central umbrella. He suggested this is a noncontroversial fix to the statute.

Number 1276

REPRESENTATIVE CRAWFORD offered that the question is whether "we're talking about the status quo ... since September or ...

before September" when the UMC was in statute. He said he doesn't like the status quo since September, and he felt the [UMC] should have been enforced until the legislature changed it, and not the state fire marshal.

REPRESENTATIVE ROKEBERG agreed, but offered that this is a practical situation that was handed to the legislature as "a fait accompli", and he doesn't like that. He explained that [HB 399] does ratify the IMC and not the UMC. He agreed that the legislature needs to retain its authority to select a code. Representative Rokeberg added:

What I aim to bring out to this committee is, ... an umbrella agency should have all the codes together and the legislature should stipulate what codes they should be. And the cyclical editions that are adopted should be up to the ... administration. You don't need to come back to the legislature and do the cyclical updates.

Number 1422

CHAIR MURKOWSKI asked if Representative Halcro maintained his objection to Amendment J.1.

REPRESENTATIVE HALCRO responded in the negative.

CHAIR MURKOWSKI announced that there being no further objection, Amendment J.1 was adopted.

Number 1440

REPRESENTATIVE ROKEBERG moved to report CSHB 399 [version 22-LS1461\J, Bannister, 3/28/02, as amended] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 399(L&C) was moved out of the House Labor and Commerce Standing Committee.

HB 504-WAGES FOR WORKERS IN FISHERIES

Number 1497

CHAIR MURKOWSKI announced that the next order of business would be HOUSE BILL NO. 504, "An Act relating to the wages of people working in the fisheries business." [HB 504 was sponsored by the House Rules Standing Committee, chaired by Representative Kott. Adopted as a work draft on 3/25/02 was a proposed

committee substitute (CS), Version L, 22-LS1595\L, Craver, 3/25/02.]

Number 1532

KRIS NOROSZ, Icicle Seafoods, testified via teleconference in support of [Version L], which would allow Icicle Seafoods to recover some of the costs for providing room and board for employees in remote locations. This would also standardize the practice used currently for nonremote locations where there are other [housing options] available.

MS. NOROSZ addressed the concern regarding the amount of money that might be deducted from an employee's wages. She offered an example of [Icicle Seafood's] practice in Petersburg: employees are charged \$10 a day to stay in the bunkhouse, and \$3.50 for a hot, unlimited meal. She argued that one would be hard-pressed to find a comparable deal anywhere for that price. The meal plan for senior citizens in Petersburg is subsidized by the federal, state, and local governments, she noted; this program provides three portioned dinners a week for \$3.50 a meal. She argued that the price [Icicle Seafoods] charges employees for a meal is "very, very reasonable," and indicated Icicle Seafoods loses money each year [with the meal program].

Number 1652

MS. NOROSZ offered that [Icicle Seafoods] would follow a similar pattern for its remote locations for a number of reasons. One reason is that it is important for the employees to have a good experience and return as experienced, seasoned employees. It costs more to hire people who leave before the season is over and to have to replace them. She said it is in the best interest of both the employer and the employee to make sure that "things are fair."

MS. NOROSZ disclosed that [Icicle Seafoods] is in competition with other employers to find good workers, and therefore it doesn't make sense to charge the employees too much for room and board. She urged passage of [HB 504, Version L], which will standardize the practice that [Icicle Seafoods] currently uses in nonremote locations.

Number 1737

REPRESENTATIVE MEYER asked if the Department of Labor and Workforce Development (DLWD) or the Occupational Safety and

Health Administration (OSHA) periodically visit any of Icicle Seafood's remote locations.

MS. NOROSZ replied in the affirmative, saying she believes the DLWD is responsible for overseeing OSHA regulations in Alaska.

REPRESENTATIVE MEYER asked how often this occurs.

MS. NOROSZ answered that she doesn't know, but offered to find that information for the committee.

REPRESENTATIVE MEYER asked if OSHA doesn't visit the remote locations because the DLWD is in charge of overseeing OSHA regulations.

MS. NOROSZ said she believes that is true.

Number 1787

REPRESENTATIVE ROKEBERG, referring to an e-mail received from a gentleman in Soldotna, reported that some canneries and processors will sometimes only work the workers one to four days a week. He argued that under HB 504, these workers could end up owing the canneries for room and board. He inquired about Icicle Seafood's hiring practices.

MS. NOROSZ reported that the nature of the industry in fisheries is dependent on Mother Nature, and therefore it is hard for an employer to say when the fish are going to arrive, and in what quantities. She said [Icicle Seafoods] wants employees to get a lot of work; as a result, it tries to not hire more employees than needed for the season. The number of employees Icicle Seafoods predicts it will need is based on the "run size prediction" of the Alaska Department of Fish & Game (ADF&G). She offered that unfortunately Icicle Seafoods can't guarantee workers that they will work a certain number of hours per week. But when there is a smaller run, Icicle Seafoods tries to find other jobs for its employees around the plant - for example, doing maintenance. Regardless of whether someone is working, that person still is eating meals, and she said she feels this is a reasonable expense to charge employees.

Number 1884

REPRESENTATIVE KOTT asked if [Icicle Seafoods] outlines in the contractual arrangement with an employee what the costs will be so that an employee will know ahead of time.

MS. NOROSZ replied in the affirmative and said "everything is spelled out." In further response, she relayed that Icicle Seafoods requires that all employees speak and understand English, although not necessarily read and write English. There are also people available to ensure that employees understand what they are being told.

MS. NOROSZ said it's expensive to go through a hiring process. It is also expensive to have an unhappy worker wanting to quit halfway through a season, because a replacement worker must be hired. Thus it is important to have a thorough hiring process at the beginning of the season to find the right people for the right jobs, instead of replacing workers midseason.

Number 2026

CHAIR MURKOWSKI asked if a prospective employee signs a written contract.

MS. NOROSZ responded in the affirmative. She explained that [Icicle Seafoods] wants employees to sign a written contract so that it can count on those employees for the duration of the season.

REPRESENTATIVE CRAWFORD inquired if an employee working at a remote location is entitled to return airfare if he/she has decided to quit because there is a low run of fish and that person isn't getting much work.

MS. NOROSZ explained that for an employee to get transportation back, he/she must complete the contract. If [an employee] ends the contract early, it is the employee's responsibility to provide transportation back if that person decides to end the contract early, or if that person is caught with drugs or alcohol on the premises - which is strictly forbidden by the contract - and is involuntarily terminated. Ms. Norosz pointed out that not all of the processing occurs with salmon. There are other species, some of which entail cooperative fishing, so that the fish come in at a steady pace.

Number 2117

REPRESENTATIVE CRAWFORD said it was the intent of [the House] to raise the minimum wage, but that [HB 504] seems "to give on the right hand and take away on the left hand." He questioned the benefit to a worker who would work for possibly three or four

days a week and still be required to pay room-and-board fees in a remote area where there aren't other employment options.

MS. NOROSZ responded that every season is a little different. If a run of fish is smaller than expected in a certain location, [Icicle Seafoods] will downsize the operation and move workers to another location if they want to keep working. If there isn't enough work, employees can be let out of their contracts. She offered that after a reasonable time, [if] ADF&G downsizes the forecast [of returning fish], Icicle Seafoods would then provide employees with other opportunities.

Number 2246

REPRESENTATIVE HALCRO asked how many applicants are attracted to the occupation because of overtime pay.

MS. NOROSZ responded that she thinks it is a "big lure." Few other industries require as much overtime. Many employees like working in remote locations because there aren't as many distractions as some towns have, she said, and therefore they won't spend as much money at stores or drinking establishments. Ms. Norosz pointed out that Icicle Seafoods actually discourages applicants from going to remote locations because if the employee doesn't like it and wants to leave, it's not a good situation for the employer or the employee.

Number 2318

MS. NOROSZ, in response to Chair Murkowski, reported that employees in Petersburg are started at \$7 an hour, and remote employees are paid \$6 an hour. As to whether there is any difficulty in finding the number of employees needed, she said it depends on the season and the current state of the job market in Alaska and the Lower 48. She offered that three to four years ago there was some difficulty attracting enough employees, and the DLWD was "very helpful" in helping with that. The past few years, it has been much easier to find employees.

TAPE 02-45, SIDE B

Number 2383

REPRESENTATIVE ROKEBERG asked what the average retention rate is for returning employees.

MS. NOROSZ offered to find out. She said regular wage increases, as well as benefits, are given to employees according to the number of hours they have worked.

CHAIR MURKOWSKI asked Mr. Mastriano whether his office conducts visits to remote locations.

Number 2325

RICHARD MASTRIANO, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development, testifying via teleconference, replied in the affirmative. He reported that OSHA, under labor standards, does do "the shore-based processing - we go out and do the shore-based processing." The U.S. Department of Labor covers the [floating processors]. In further response, he said [a processor usually gets a visit] about once a year unless a problem requires a follow-up visit.

Number 2290

REPRESENTATIVE HALCRO asked if there have been complaints with regard to employment practices in remote facilities.

MR. MASTRIANO answered that he receives a number of complaints, but not very many are related to housing. The complaints are with regard to return transportation, wages, and deductions from wages. He reported that last year DLWD received 71 claims statewide for various deduction problems, 20 of which were from processors. In further response, he explained that usually when there is a wage claim, an employee has signed a contract with the employer and isn't getting enough work in a remote location. An employee who quits must pay for transportation, as outlined in the contract.

REPRESENTATIVE KOTT told members that a statute deals with the right to return transportation, and that it is also spelled out in the contract. He said some of the other issues, such as not being paid correctly for the amount of hours worked, aren't any different from issues for workers elsewhere.

MR. MASTRIANO agreed.

Number 2162

CHAIR MURKOWSKI asked if DLWD is involved with complaints from employees who don't feel they are being charged a fair price for room and board.

MR. MASTRIANO responded that most processors charge about \$10 a day for room and board, which the department feels is reasonable. If a complaint is received, the employer must furnish a complete budget to show the department the costs to operate and maintain that facility. A program in the C.F.R. [Code of Federal Regulations] tells what expenses are allowable without profit, which is what [DLWD] will look at. He hasn't had that happen since becoming director, he said, and therefore hasn't had to perform this procedure.

Number 2073

REPRESENTATIVE ROKEBERG referred to AS 23.10.380(a)(1), which read in part, "(1) on or after the termination of employment for a cause considered good and sufficient by the department, beyond the control of the person, or on or after the termination of the contract of employment or a renewal of the contract". He asked whether, when an employee is fired, the employer must still provide return transportation.

MR. MASTRIANO replied that there is a companion regulation that goes along with that; he indicated that if an employee is terminated for an unexcused absence, drinking on the job, or fighting, the employer doesn't have to pay for return transportation. However, if an employee is fired for anything else, [the employer] must pay the return transportation.

Number 2010

DON ETHERIDGE, Lobbyist for Alaska State AFL-CIO, testified before the committee in opposition to HB 504. He said [AFL-CIO] sees HB 504 as the "tip of this iceberg," and although the fisheries industry is in a slump, it shouldn't be exempted from minimum wage.

REPRESENTATIVE ROKEBERG asked if "organized labor" is aware of the economic situation surrounding the seafood processing industry, particularly with the regard to the importation of foreign fish.

MR. ETHERIDGE replied in the affirmative. He said the [AFL-CIO] is concerned for the [fishing] industry and the workers. He offered that he knows a person who is a recruiter for a "fishing group" that is about to go broke, and yet this person owns a new house on Bainbridge Island in Washington and a brand-new house

in San Francisco. He stated, "He's a recruiter for them, so they can't be all that broke."

Number 1879

REPRESENTATIVE ROKEBERG offered that the "integrated [fishing] business" in Alaska encompasses the small gillnetter through to the large processor. He speculated that the individual that Mr. Etheridge had referred to is on the executive end of the industry, and will be out of a job quickly if the industry fails entirely. He said he can foresee the industry failing in the next couple of years, particularly "after the ALF-CIO ... was able to pass a petition to raise the minimum wage by 26 percent." He asked if some of the businesses that are struggling financially deserve a break.

MR. ETHERIDGE responded that "every business in the world" could use a break for one reason or another. He said he has worked extensively in the commercial fisheries industry, from commercial fishing to working in the canneries, and these workers deserve the same wages as those in other industries.

Number 1829

CHAIR MURKOWSKI closed public testimony. She spoke to Representative Kott regarding the language in Section 1 that provides that there is a written agreement with an employee in order to take the deduction. She referred to page 1, line 7, which allows for a deduction "based on a negotiated union agreement or a written agreement with the employee". She suggested that "at the time of hire" might need to be added as a clarification. This would require the employer to disclose the room-and-board deductions with the prospective employee before work begins so that the employee knows what to expect.

REPRESENTATIVE KOTT agreed that should be added.

Number 1744

CHAIR MURKOWSKI referred to 8 AAC 15.160, subsection (e), and said this states that the employer and employee have executed the written agreement at the time of hire.

Number 1712

CHAIR MURKOWSKI moved to adopt Amendment 1, on page 1, line 7, to read, "based on a negotiated union agreement or a written

agreement entered at the time of hire with the employee". There being no objection, Amendment 1 was adopted.

REPRESENTATIVE ROKEBERG stated a concern regarding any subsequent amendments or changes "to that document." He offered that the "courts would look at it only in the subject matter that we're stressing here."

CHAIR MURKOWSKI agreed with Representative Rokeberg's concern, mentioning an employee who is hired to work in one location and then moved to another location because of a lack of fish.

REPRESENTATIVE ROKEBERG offered that this employee could enter into a new written contract.

Number 1660

CHAIR MURKOWSKI pointed out there has been discussion that [allowing the fishing industry] to deduct from wages will prompt other industries to [request the same provision]. She said to Representative Kott, "As I understand, what you are doing with [HB 504] is codifying the language from regulations."

REPRESENTATIVE KOTT said that is "pretty much true," and offered that there is potentially an opportunity for another occupation to perhaps tweak [the regulations]. He said, however, that the statutes clearly indicate the commissioner can pass regulations that will allow for the reduction from the minimum wage for specific occupations. He said, "In the regulatory scheme of things, what has happened is we've added a little provision there that basically now separates occupation from remote to nonremote." Currently, deductions can be made in nonremote sites - for example, in Petersburg - but not in remote areas.

REPRESENTATIVE KOTT suggested the occupation, not the location, is the important factor. He remarked, "Our statute allows for it, the feds allow for it, and the regulations allow for it in part; they didn't quite go all the way. So they've carved out this niche between nonremote and remote, and we're trying to fill the void." In response to Representative Rokeberg, said he would guess that because there is alternative public housing available, Unalaska is a nonremote site.

Number 1500

ED FLANAGAN, Commissioner, Department of Labor and Workforce Development, (DLWD) responded in the affirmative to a question

from Representative Meyer regarding whether the department will need to hire another person if the bill passes.

REPRESENTATIVE MEYER questioned that, suggesting [the department] is already going out to job sites to oversee OSHA regulations.

COMMISSIONER FLANAGAN explained that [the department] tries to do as much "cross-training" as possible, but there are distinctions between programs, especially in the case of OSHA, since it's 50 percent federally funded. He said a lot of this would be kind of an audit function, and it wasn't the department's intention to introduce a prohibitive fiscal note. He said if there was a provision [in state statute] whereby if [an employer] just charges \$10 [for room and board], there wouldn't be an audit. He explained that the reason for the additional position on the fiscal note is because there are a lot of remote facilities in Alaska, and an audit [in a remote area] could be fairly labor-intensive.

REPRESENTATIVE MEYER asked if the [\$70,600] indicated on the fiscal note represents the position and travel costs.

COMMISSIONER FLANAGAN reported that it is the "full position cost." He deferred to Mr. Mastriano.

Number 1401

MR. MASTRIANO said, "Yes, it does." With regard to the [\$9,300] contractual cost on the fiscal note, he said that figure would cover a desk, computer, and other office equipment.

COMMISSIONER FLANAGAN added that the figure should be listed under equipment on the fiscal note.

Number 1375

REPRESENTATIVE MEYER restated his concern over hiring an additional person if there already are people going to the remote sites.

COMMISSIONER FLANAGAN responded, "Wage & Hour doesn't get in nearly as often." He said OSHA does have scheduled inspections and tries to get into the processing facilities at least once a year, because it is a high-hazard industry. He explained that the return-transportation issue does generate a lot of complaints, even if employers are complying with the law. He

stated, "It's one of our last fully general-funded sections, so there's no ... ability to pick up any additional tasks without reflecting it in a fiscal note."

Number 1298

REPRESENTATIVE MEYER asked whether one visit a year to the remote sites is anticipated.

MR. MASTRIANO explained that since it would be a new situation, [the department] would probably go out and visit the sites - particularly the outlying areas - because there is no history of what to charge out there and what the operating costs are. In each of those areas, unless the employer chose to charge \$10 for room and board a day, [the department] would have to go out and get into [a business's] records or have them forwarded [to the department], which businesses generally don't like to do. He explained that [the department] would have to develop a spreadsheet for calculating all the operating costs and making sure [the cost for room and board] was reasonable. He said, "More than likely, it would end up being more than \$10, but we would still have to go through the exercise."

REPRESENTATIVE MEYER asked if the investigation would only have to be done once.

MR. MASTRIANO replied that the investigation would be done once only if the cost didn't change. He offered that many factors could lead to an increased cost, such as a rise in the price of electricity or natural gas.

Number 1189

CHAIR MURKOWSKI asked if [the department] would have to do an analysis of each [fishing business] to determine the fair value of room and board before the employee and employer entered into a written contract.

MR. MASTRIANO responded, "Yes, but we're complaint-driven". Therefore, an audit would have to be done on each new complaint.

CHAIR MURKOWSKI surmised that until a complaint was received, there would be no audits.

MR. MASTRIANO replied, "Not unless the statute were passed, and then we would probably have to do that on some of them, but ... not until we got everybody in line with the new statute." He

offered that [an initial audit] would most likely be done in the most remote areas to make sure those costs are reasonable, and "then wait for the complaints to come in."

REPRESENTATIVE ROKEBERG asked if the OSHA inspectors can do other jobs because they are federally funded.

MR. MASTRIANO replied in the negative and said, "We have a strict guideline from Occupational Safety and Health [Administration] as to what our folks can do." He explained that the enforcement and consultation employees [with the department] are separated and are not allowed to discuss where they are supposed to go [to investigate].

REPRESENTATIVE ROKEBERG, referring to 8 AAC 15.160(d), asked if [the department] already has the ability in nonremote sites to deduct [room and board].

MR. MASTRIANO answered that if alternative public housing is available and the employee agrees to stay at the employer's place of business, then the deductions can be made.

Number 1038

REPRESENTATIVE ROKEBERG suggested it would likely include most of the larger communities.

MR. MASTRIANO replied that it would include communities such as Kenai, Soldotna, Homer, or Ninilchik. He said the wage-and-hour investigators try to make a visit in late May or early June, and then again at the end of the season in September if there have been a lot of complaints.

REPRESENTATIVE ROKEBERG asked Mr. Mastriano where the 71 complaints he'd mentioned had come from.

MR. MASTRIANO explained that the figure was the total of statewide complaints [the department] had received for deductions. He said that is what the wage and hour administration calls "150, ... wrongful deductions, and those require investigations." These "wrongful deductions" require an investigation and can vary; examples are a deduction for a bad check, or after someone walked out on a meal.

Number 0933

REPRESENTATIVE CRAWFORD began discussion of conceptual Amendment 2. He said he is opposed to "the spirit of [HB 504]" but understands that the fish processors have a problem. He noted his concern over the wording on line 8, "a reasonable cost", because this cost can vary throughout the state. He said this wording might leave employers open to charge up to \$25 [for room and board], giving too much leeway to charge whatever they deem is reasonable.

Number 0779

REPRESENTATIVE CRAWFORD moved to adopt conceptual Amendment 2, to clarify "reasonable cost" on page 1, line 8, to specify that amount to begin at \$8 [per day] and to be adjusted [annually] based on the consumer price index (CPI). This amendment would also state that employees would not have to pay [room and board] for days they don't work.

CHAIR MURKOWSKI offered her understanding that [employers] generally charge \$10 a day for board, but that meals are extra.

REPRESENTATIVE CRAWFORD said some charge [extra for meals], but Mr. Mastriano had indicated some employers charge \$10 a day for room and board.

Number 0723

REPRESENTATIVE HALCRO offered his understanding from the testimony that the "accepted level is \$10 a day." He stated a concern with a worker's accepting a remote job with the notion of working "significant hours," and then if the fish don't show or there is a poor return, the worker will sit and wait until the fish come in. Meanwhile, the person is only working two or three hours a day and is being charged \$10 a day for room and board, and could possibly, at the end of the two- or three-week slow period, end up owing money [to the employer]. He said he would like to see some kind of protection for employees in a situation in which they would owe money after they left because of a lack of work.

Number 0617

REPRESENTATIVE CRAWFORD remarked that Representative Halcro's point is part of his concern also, and said he doesn't want to see [employees leave] with a very small paycheck. He said there are people who wait in an unemployment office and wait for employers to call. If there is more than one employer looking

for workers, the prospective employee must decide where to work, based on the pay and whether room and board is included. Once the employee accepts a job, that person is "at the mercy of Mother Nature." He said he knows people who haven't made much money because they made the wrong decision but couldn't leave because they couldn't afford return transportation.

Number 0516

REPRESENTATIVE ROKEBERG referred to 8 AAC 15.160[(e)], which read:

Unless the employer and the employee have executed a written agreement as described in (d) of this section, at the time of hire, the employer is prohibited from seeking to retroactively deduct the cost of board and lodging as an offset against wages due upon termination or wage deficiencies subject to collection by the department.

REPRESENTATIVE ROKEBERG interpreted this to mean that the department won't collect money from "this person, nor should the employer." He said, "You can't charge him for more than he's made." He asked Representative Crawford if this is the point of [his amendment].

Number 0450

REPRESENTATIVE CRAWFORD reiterated that he doesn't want an employee charged for more than was earned, and wants the person to have at least something to show for his/her time out there.

REPRESENTATIVE ROKEBERG offered that this issue is partially resolved in the regulations.

REPRESENTATIVE CRAWFORD added that if there is no work on a particular day, an employee shouldn't be charged for room and board.

REPRESENTATIVE ROKEBERG said he understands the concern, but suggested it could be an accounting nightmare deciding who worked on what day, and what kind of work a particular employee did. He offered, "We could put a prohibition [whereby] there's no way they can offset or deduct more than the wages earned by the person. That way, he's protected." He asked if this is what Representative Crawford is referring to.

Number 0355

REPRESENTATIVE CRAWFORD said, "No. If I don't get to work on Tuesday, then I shouldn't have to pay for room and board on that Tuesday."

REPRESENTATIVE ROKEBERG stated, "But you ate."

REPRESENTATIVE CRAWFORD explained that it is part of the risk an employer takes in sending employees out to a remote location.

REPRESENTATIVE ROKEBERG reiterated that the accounting could be a real problem.

Number 0323

REPRESENTATIVE CRAWFORD noted that this works in his line of work, and said it should work for the fisheries industry also.

REPRESENTATIVE ROKEBERG said the fishing industry is in financial trouble and that he doesn't want to add any accounting costs. He offered that an employee who sat for two weeks, and didn't work, shouldn't be charged.

REPRESENTATIVE CRAWFORD responded, "No, no. If I work four days and get paid for four days, I shouldn't have to pay for seven days' worth of room and board."

Number 0234

REPRESENTATIVE KOTT objected to conceptual Amendment 2. He said there are risks employees must take when accepting employment in a remote site. He noted from previous testimony that employers don't want to let the employees sit idle, and that if there is a poor fish return, then the employer may relocate the employee to a nonremote area. He suggested the discussion was getting too complex with regard to determining wages and the value [of room and board]. He emphasized that there isn't a place in the state where someone can eat as much as desired for \$10 a day. He said, "I'd be more than willing to compromise and go \$15 a day and no audits."

Number 0090

REPRESENTATIVE ROKEBERG objected as well.

CHAIR MURKOWSKI offered that Representative Crawford had started out with two issues. The first was the "reasonable cost" concern. She said she didn't share Representative Crawford's discomfort with that issue, and noted that Mr. Mastriano's testimony indicated that [the wage and hour administration] spends a fair amount of time determining the fair value and reasonable cost. However, she concurred with Representative Crawford's concern about the worker who is stuck in a remote location.

TAPE 02-46, SIDE A
Number 0009

CHAIR MURKOWSKI offered that if one location doesn't have a large return of fish, it is beneficial to both the employer and the employee to relocate to where there is more work. Noting the concern about what can happen with employees who possibly owe more money at the end of the day due to a lack of work, she said she wasn't "so unopposed" to conceptual Amendment 2, and suggested it is an area that needs to be worked out.

Number 0162

REPRESENTATIVE CRAWFORD explained the changes he would be willing to accept to conceptual Amendment 2: replace the word "reasonable" with "\$10 a day", and add "not have to pay for room and board for days not worked". He clarified that he'd originally indicated \$8 to replace "reasonable", but would consider changing that to \$10.

Number 0234

CHAIR MURKOWSKI suggested having two separate amendments. Conceptual Amendment 2 would provide language to the effect that an employee wouldn't be required to pay for room and board for days when wages were not earned.

REPRESENTATIVE KOTT objected to conceptual Amendment 2. He offered his belief that there had been no anecdotal evidence or factual support in the testimony for the idea based on the nonremote sites. He said this is the existing situation, and employees aren't charged extra for days when they work 16 hours and might eat four meals.

Number 0322

CHAIR MURKOWSKI explained that the way the regulations are now, deductions from the wages can be made in a nonremote setting; there is no allowance that depends on whether the employee is working.

REPRESENTATIVE KOTT offered that he hasn't heard any complaints about the current regulation.

REPRESENTATIVE CRAWFORD responded that he has heard plenty of complaints from his relatives and friends who have worked in nonremote sites. He emphasized that part of the attraction of working in a remote site is that an employee doesn't have to pay room and board if the fish don't return and there isn't work.

Number 0401

REPRESENTATIVE ROKEBERG suggested that the contract signed prior to employment could stipulate whether [room and board would be covered by the employer when there isn't work]. He argued that [the legislature] shouldn't be writing contracts by statute. He agreed with Representative Kott that there haven't been any problems brought up in testimony about the current practice.

Number 0473

REPRESENTATIVE CRAWFORD responded, "Under the present regulations, they don't have the ability to write a contract to take room and board out of remote sites; that's not there. This bill is trying to give that right to the employer." He said he is trying to "keep that from happening, or at least mitigating the damage that it might do."

CHAIR MURKOWSKI pointed out that if there isn't enough work, employees can choose to find other employment in larger, nonremote sites, whereas employees in remote sites are stuck.

CHAIR MURKOWSKI requested a roll call vote on conceptual Amendment 2, which she said would insert language such that if the employee hadn't earned a wage on a given day, that employee wouldn't be charged for room and board.

Number 0570

REPRESENTATIVE KOTT asked how the situation would be handled if an employee had requested a day off and hadn't earned a wage, and whether an employee would be paid who requested a day off for illness.

REPRESENTATIVE HAYES asked for clarification, conveying his understanding that most employees don't get a [scheduled] day off in this industry.

Number 0708

MS. NOROSZ explained that people sign on to work for a period of time when work is available; contracts vary with each company, and she didn't know whether there was a uniform standard throughout the industry. As to whether employees have scheduled days off, she responded in the negative and offered an example of an opening during the salmon season: the fishermen will fish for two days and then bring the fish to the processing plant. It could take three to four days to process the fish once they are received, and maybe no fish will be delivered for another day; so employees may have the day off or may end up doing nonprocessing work like maintenance. During the day off, she pointed out, employees are still being fed and housed.

Number 0803

MS. NOROSZ, in response to Representative Rokeberg, said [Icicle Seafoods] tries to give everybody some work, rather than giving one crew a ten-hour day and another two hours. At the end of the season when the fish run is dwindling, she noted, the company will try to reduce the workforce. She elaborated:

People could either go home or, if they wanted to find other work with the company, we would try to move them somewhere else where it has a longer season. ... The State of Alaska has been very helpful in trying to direct seafood workers when their season's ended into another fishery, and even for another processor who might be doing a species ... that's going into the fall and winter.

Number 0900

REPRESENTATIVE CRAWFORD offered an amendment to conceptual Amendment 2, to have there be no charge for involuntary days off. For a voluntary day off, the employee would still have to pay for room and board.

CHAIR MURKOWSKI clarified that conceptual Amendment 2, then, would be that an employee would not be charged room and board

for the days when he or she didn't earn a wage for an involuntary day off.

Number 0966

REPRESENTATIVE KOTT referred to testimony and indicated he objected because [the legislature] would be asserting itself into managing a work schedule. He explained:

All we have to do is put ... one person on the line for two hours ... [and] pay them \$5.30 an hour, so that'll give them \$10.80. ... We subtract \$10 from his wages for room and board, [and] he's making 80 cents. That just satisfied your amendment and doesn't do anything but clog up the whole cog ... with more paperwork.

REPRESENTATIVE CRAWFORD countered, "It doesn't clog anything because under [HB 504] they're going to charge them for the day anyhow, whether he works or not. So if they get two hours' worth of work, then that much the better."

Number 1022

A roll call vote was taken. Representatives Crawford, Hayes, and Murkowski voted for conceptual Amendment 2 [as amended]. Representatives Halcro, Meyer, Kott, and Rokeberg voted against it. Therefore, conceptual Amendment 2 failed by a vote of 3-4.

REPRESENTATIVE KOTT offered that the question brought up by Representative Crawford about how much a processor should charge an employee is a fair one. He said he would entertain an amendment that says the processors cannot charge any more than the daily average of what's being charged in nonremote sites.

REPRESENTATIVE ROKEBERG indicated the amount an employee will be charged for room and board [should be in] the written agreement before the employment begins, so that the prospective employee knows the score going in.

REPRESENTATIVE KOTT related his belief, after talking with members of the fishing industry on several occasions, that the amount to be charged for room and board is included in the contract. He again suggested creating [an average] that doesn't exceed what is being charged in nonremote sites. He asked Ms. Norosz whether that concept is reasonable.

Number 1200

MS. NOROSZ replied that she doesn't know what other companies are doing, but said what [Icicle Seafoods] is doing is very reasonable, considering it loses money every year on meals. She noted that food in remote areas is more expensive.

CHAIR MURKOWSKI said she appreciated Representative Kott's concern, but surmised that [the Wage & Hour section of the Division of Labor Standards & Safety, DLWD] makes certain that businesses aren't way out of line with what they're charging employees for room and board. She stated support for Representative Rokeberg's suggestion to make certain that the written agreement clearly sets forth what those charges will be for room and board before the employee begins working. This would let prospective employees know exactly what they will be charged prior to employment.

Number 1337

REPRESENTATIVE KOTT concurred, but said there may be some potential for abuse "the other way." He stated a concern with some migrant workers or immigrants who can't read or write English. He noted that employers will need to keep their prices reasonable to stay competitive in the industry.

Number 1407

REPRESENTATIVE HAYES offered to add a conceptual amendment that would require the House Labor and Commerce Standing Committee to review the status of this legislation and the fishing industry every two years. He suggested that in years when the fishing industry is flourishing, the exemption might not be warranted. In response to Chair Murkowski, he explained that he wasn't proposing a sunset review, but a report to the committee every two years.

Number 1482

REPRESENTATIVE HALCRO referred to prior legislation that granted an exception to wages for airline employees and volunteer ski patrollers, and explained that there were warnings about the exemptions' being "a slippery slope" because other industries would ask for exemptions also. He said he doesn't think [HB 504] is a slippery slope because exceptions will come up and need to be debated on their merits every year, whether for the fishing industry or the airline industry. He said he wasn't

supportive of Representative Hayes's suggested conceptual amendment.

REPRESENTATIVE KOTT agreed and noted that nothing prevents the next legislature from reviewing [the new law, if enacted] next year instead of waiting for two years. He said requiring the legislature to revisit it based on a report will be throwing more paperwork on the shoulders of the [DLWD]. He suggested that a sunset provision wouldn't be prudent at this point.

REPRESENTATIVE ROKEBERG also stated opposition to the conceptual amendment proposed by Representative Hayes.

CHAIR MURKOWSKI offered that the House Labor and Commerce Standing Committee might want to submit a letter of intent that says the committee wants to revisit the issue in a couple of years to see how the seafood industry is doing in general.

Number 1646

REPRESENTATIVE HAYES thanked Representative Murkowski for her suggestion and announced that a letter of intent would satisfy his concern instead of an amendment.

REPRESENTATIVE KOTT said the regulations apply to half of the processors, but not the others. He argued that [HB 504] is "a fairness bill."

Number 1712

CHAIR MURKOWSKI moved to adopt conceptual Amendment 3, to clarify the language with regard to the written agreement between the employer and the employee, to provide that it "should clearly state the terms and conditions of employment including the cost for board or lodging, which may be deducted from the applicable minimum wage." There being no objection, conceptual Amendment 3 was adopted.

Number 1745

REPRESENTATIVE ROKEBERG moved to adopt conceptual Amendment 4, to add a new Section 2 to provide an immediate effective date.

CHAIR MURKOWSKI objected.

REPRESENTATIVE ROKEBERG explained that by the time [HB 504] is passed into law, the fishing season will have already started.

CHAIR MURKOWSKI referred to a previous comment by Representative Kott indicating this bill isn't tied to the minimum-wage legislation [HB 56], which has an effective date of January 1, 2003. She said the current minimum wage of \$5.65 would still be in effect if [HB 504] had an immediate effective date, and wouldn't change until January 1, 2003.

REPRESENTATIVE KOTT restated that [HB 504] is an "equity issue" [between remote and nonremote employees in the fishing industry].

Number 1827

REPRESENTATIVE HAYES referred to prior testimony which indicated that remote employees are paid \$6 an hour and nonremote employees are paid \$7 an hour. He asked how conceptual Amendment 4 affects these employees.

CHAIR MURKOWSKI clarified that the employee and employer would be able to enter into the contractual agreement that allows for the deduction of room and board this summer from whatever the minimum wage was at the time the contract was signed.

Number 1897

A roll call vote was taken. Representatives Halcro, Meyer, Kott, and Rokeberg voted for conceptual Amendment 4. Representatives Hayes, Crawford, and Murkowski voted against it. Therefore, conceptual Amendment 4 was adopted by a vote of 4-3.

REPRESENTATIVE MEYER suggested the fiscal note could be reduced from [\$70,600]. He said there shouldn't be a need for a new full-time employee because the department is already doing at least half of this work currently.

REPRESENTATIVE KOTT agreed, saying he sees no justification for the fiscal note in the "out" years.

Number 2009

CHAIR MURKOWSKI concurred and suggested that the House Finance Committee "pick it apart."

REPRESENTATIVE ROKEBERG commented that he suspects Congress is going to pass a minimum wage bill "sooner rather than later." He said this is one reason he'd offered conceptual Amendment 4,

which creates an immediate effective date. He asked if the minimum-wage increase would be immediate in Alaska if Congress passed the minimum-wage bill.

COMMISSIONER FLANAGAN replied, "It would, but you're basically negating the minimum wage for these people, so it doesn't matter."

Number 2070

REPRESENTATIVE ROKEBERG moved to report CSHB 504 [version 22-LS1595\L, Craver, 3/25/02, as amended] out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 504(L&C) was moved out of the House Labor and Commerce Standing Committee.

HB 472-PAWNBROKERS/SECONDHAND DEALERS

CHAIR MURKOWSKI announced the next order of business, HOUSE BILL NO. 472, "An Act relating to persons who buy and sell secondhand articles and to certain persons who lend money on secondhand articles."

Number 2132

REPRESENTATIVE HALCRO moved to adopt the proposed committee substitute (CS), version 22-LS1519\J, Bannister, 3/19/02, as the working document. There being no objection, Version J was before the committee.

Number 2150

LAURA ACHEE, Staff to Representative Joe Green, Alaska State Legislature, on behalf of Representative Green, sponsor of HB 472, explained that Version J addresses two concerns brought up at the last hearing. One relates to tightening the definition of a secondhand dealer so that garage sales and swap meets aren't included. The other was brought up by a pawnshop owner who felt he shouldn't have to list items that he'd paid \$1 to purchase. She said she'd worked with pawnbrokers and police officers to come up with clearly defined guidelines for what needs to be recorded: any item that has a serial number; any item that has a resale value of \$75 or more; or an item presented in a lot of ten or more similar items, except for books, in a seven-day period by one individual - for example, compact discs (CDs) that can be stolen and resold easily.

Number 2219

MS. ACHEE noted another change in Version J: removal of the requirement to have the name of the purchaser be recorded. She explained that subsection 2(c) allows for records to be maintained by computer and specifies that the dealer "shall use a system that guarantees that a record cannot be eliminated after entry". She pointed out that Section 6, added at the request of the Anchorage Police Department (APD), requires that all items that fall under the reporting guidelines be held for 30 days after the item is received. And Section 7 clearly defines pawnbrokers and secondhand dealers.

Number 2285

CHAIR MURKOWSKI, referring to Section 6, noted that under AS 08.76.040 there are provisions for holding goods for a specific period of time before selling them. She asked if [AS 08.76.040] was revoked or repealed, or whether Section 6 is in addition to the current statute.

MS. ACHEE conveyed her understanding that it would be in addition to the existing statute. She said she believes the current statute includes guidelines for holding items after they've been pawned so that the person who pawned them has an opportunity to come back.

CHAIR MURKOWSKI offered her understanding that AS 08.76.040 is the "Disposition of unredeemed property" and will stay in statute, and that Section 6 would be an additional requirement.

MS. ACHEE clarified, "Just items that are sold outright."

Number 2334

CHAIR MURKOWSKI mentioned that she thought the definition of secondhand dealer was a person who "regularly engaged in" the business of purchasing.

MS. ACHEE explained that the word "regularly" isn't included in the actual statute. She said some other states' statutes refer to people who go to swap meets, and how many times a year they do so. She said she'd intentionally left the word "regularly" out of [Version J] for clarity.

TAPE 02-46, SIDE B
Number 2350

DAVID HUDSON, Captain, Division of Alaska State Troopers, Department of Public Safety, testified via teleconference, noting that he'd spoken with Detective Bridges with the APD today regarding [Version J]. He stated, "Certainly, I believe that there's been excellent inroads made into the intent and the purpose of [HB 472]."

REPRESENTATIVE HAYES asked, "Does any department not do this?" He offered that this issue "boils back to what things the state should do and what things the state shouldn't do." He said he doesn't understand the purpose of [HB 472], and asked whether the changes made in [Version J] addressed his concerns from the last hearing.

Number 2309

MS. ACHEE explained that Anchorage is the only place in Alaska where pawnbrokers and secondhand dealers are required to report at all. She said she wouldn't have encouraged [HB 472] to move forward if there were opposition from any police department in the state. She said the police departments "seemed very happy to work with me on it."

REPRESENTATIVE HAYES asked who pays for any additional costs to police departments associated with passage of HB 472, and whether it could be considered an unfunded mandate.

Number 2270

MS. ACHEE replied, "To a small degree, I think this could be classified as an unfunded mandate for the pawnshop owners and the secondhand dealers." She said the police departments that are receiving the reports have the option of not doing anything with those reports - and the cost would be zero - or they can enter the reports into a database and, depending on how they received [the reports], the costs would vary.

CHAIR MURKOWSKI asked about the effective date and how it will affect a pawnshop owner in rural Alaska who hasn't been reporting thus far; she noted that a testifier from Delta Junction had raised this concern at the last hearing.

MS. ACHEE responded that the concern wasn't resolved in [Version J]. She noted that the pawnshop owner in Delta Junction, under state law, should have been recording every item that came into the store, even if the owner wasn't reporting.

She offered that the issue of reporting would be to simply provide the records that should have been kept up to date.

CHAIR MURKOWSKI asked if pawnbrokers or secondhand dealers must start submitting written reports as of the effective date, or if they will be required to provide a full inventory of the store [of items received before the effective date].

MS. ACHEE replied that "retroactive reporting" is not addressed in HB 472.

Number 2160

CHAIR MURKOWSKI said the purpose of the statute is to make sure that the goods coming into a pawnshop have not been stolen, and a pawnbroker or secondhand dealer shouldn't have to report on an item that has sat on the shelf for the last year and a half. She surmised that beginning with the effective date, someone would be required to submit records which, prior to this time, that person might not have been obligated to submit. She asked if this is the sponsor's intent.

MS. ACHEE replied in the affirmative, and noted that pawnshops are required to have these records already, whereas secondhand dealers haven't had to do this yet.

Number 2107

REPRESENTATIVE ROKEBERG asked Captain Hudson if a antique dealer would be considered a secondhand dealer, by definition.

CAPTAIN HUDSON conveyed his understanding that some secondhand dealers aren't obligated to report in Anchorage. He gave an example of a business in Anchorage named Play It Again Sports: prior to a change in ownership, it was required to report to the APD; recently, the new owner and the city have questioned whether it is necessary for the store to report.

Number 2046

REPRESENTATIVE ROKEBERG asked if a secondhand bookstore would be required to report also.

CAPTAIN HUDSON deferred to the sponsor, but added that if one is in the business of purchasing secondhand articles for resale, then that would include bookstores and antique dealers.

MS. ACHEE said she'd discussed this issue with Detective Bridges, who was unable to testify today; in the case of a bookstore, most items are not going to fall under the guidelines in Section 1 because [the item] won't [have a serial number] or a resale value of \$75. She mentioned that it is the same issue with regard to antique dealers.

Number 1972

REPRESENTATIVE ROKEBERG offered that he has been through antique shops, and said it "would be a nightmare to try to inventory and keep a record of." He said there could be a Coke bottle that is worth more than \$75 dollars. He said he has no problem with pawnshops' reporting, but there could be some potential issues with trying to regulate secondhand stores. He asked if this has been done in the past.

MS. ACHEE replied that the Municipality of Anchorage did have statutes regulating secondhand merchants. She said she has put a lot of thought into this issue and agrees with Representative Rokeberg that "we're getting into a lot of gray areas, and we're getting into a lot of places where people who didn't have to keep records or do reporting before are going to have to." She noted that pawnshop owners whom she has spoken with have expressed that secondhand dealers should be required to record and report also. She said the \$75 limit was a figure she came up with after averaging out all the different recommendations she'd received from pawnshops and police officers. She said that figure is "open to change."

REPRESENTATIVE HAYES stated that he was uncomfortable with [HB 472] because of the unfunded mandate issue.

Number 1864

REPRESENTATIVE HAYES moved to report CSHB 472, version 22-LS1519\J, Bannister, 3/19/02, out of committee with individual recommendations and the accompanying zero fiscal note.

MS. ACHEE offered to work with Representative Rokeberg and his staff on any concerns before HB 472 is heard in the House Judiciary Standing Committee [which Representative Rokeberg chairs].

REPRESENTATIVE ROKEBERG suggested with regard to "secondhand" that either there should be exemptions or it should be tightened up somehow.

CHAIR MURKOWSKI noted that current statutes don't define either a pawnbroker or a secondhand dealer.

REPRESENTATIVE ROKEBERG suggested it isn't appropriate to put pawnbrokers and secondhand dealers "under the same regime." He proposed that [Ms. Achee] consider that [before HB 472 is heard in the House Judiciary Standing Committee].

Number 1795

CHAIR MURKOWSKI announced that there being no objection, CSHB 472(L&C) was moved out of the House Labor and Commerce Standing Committee.

CHAIR MURKOWSKI called an at-ease at 5:58 p.m.. She called the meeting back to order at 6:00 p.m.

HB 443-TATTOOING AND BODY PIERCING

CHAIR MURKOWSKI announced the final order of business, HOUSE BILL NO. 443, "An Act retroactively extending the application and licensing deadlines and amending the effective date of certain provisions relating to regulation of persons who practice tattooing and permanent cosmetic coloring or body piercing; and providing for an effective date."

REPRESENTATIVE HALCRO moved to adopt version 22-LS1525\L, Lauterbach, 3/28/02, as the working document. There being no objection, Version L was before the committee.

Number 1698

SHARRON O'DELL, Staff to Representative Vic Kohring, Alaska State Legislature, testified on behalf of Representative Kohring, sponsor. Ms. O'Dell informed the committee that in 2000 the legislature passed SB 34, which addressed health and safety concerns for the tattooing and body-piercing industries by placing those industries under licensing regulations under the Board of Barbers and Hairdressers; established qualifications and training requirements for license applicants and regulations for shop licenses; and established application deadlines as well as initial licensing dates.

MS. O'DELL explained that because of the deadlines [the Division of Occupational Licensing, Department of Commerce and Economic Development (DCED)] had no mechanism, grace period, or appeals

process for dealing with someone who'd missed the new application deadline. Several qualified practitioners had missed the new application deadline because they were unaware of the new regulations. Therefore, HB 443 extends the transitional license application date to provide those practitioners the opportunity to apply for a transitional license. Ms. O'Dell said the sponsor doesn't intend to change any qualifications or regulations established in the passage of SB 34.

MS. O'DELL announced that the practitioners with which [she] has spoken are all in favor of the regulations. The only complaint surrounding SB 34 was that not everyone had received notice of the new regulations, although the [division] had done its best. Ms. O'Dell explained that [the division] developed its mailing list from names of business licenses that it already had or business licenses that had key words indicating connection with the tattooing and body-piercing industries. The list was developed from [DCED's] interested-party list, as well as that from the Department of Environmental Conservation (DEC). Notices were also placed in the newspapers. However, some practitioners never received their notices and didn't see the notices in the paper, thus missing the original deadline date.

MS. O'DELL explained that [without this legislation] a qualified practitioner who missed the July 1, 2001, deadline will have to close the business and work for a competitor in order to obtain a license. In one instance, there is only one practitioner in the area, and therefore there is no one under which this practitioner can train. Ms. O'Dell pointed out an unintentional result of SB 34: a practitioner of many years may now have to train under someone with a few years' experience. Therefore, HB 443 extends the original transitional license application date to October 1, 2002. Furthermore, it includes language that "freezes" the transitional qualification period to a period prior to July 1, 2001, the original application date, which means applicants would need to have qualified for the transitional [license] by July 1, 2001.

MS. O'DELL addressed Sections 2 and 3 of HB 443, which deal with the effective date of the licensing requirement and the related regulations. This date had to be changed because the license requirement couldn't be prior to the transitional license requirement date. Ms. O'Dell noted that [the sponsor] has worked closely with the Division of Occupational Licensing and with DEC in order to establish dates that would resolve the aforementioned problem without unreasonably delaying the safety regulations of SB 34 or allowing new people into the industry.

Number 1437

CHAIR MURKOWSKI asked how many people fell through the cracks with [SB 34].

MS. O'DELL answered that 13 people were discovered through the division and [the sponsor's office]; however, there may be more. In further response, Ms. O'Dell said although the division isn't doing anything extra with the notice for HB 443, there will be additional notices in certain newspapers. Furthermore, [Representative Kohring] has put out a news release for HB 443, which will hopefully help. Ms. O'Dell acknowledged that some folks might [not know about this]; however, HB 443 attempts to address as many [as possible] of those who were unfairly missed the first time.

Number 1352

MS. O'DELL, in response to Representative Meyer, said she didn't know [how many tattoo and body-piercing businesses there are], but noted that the division has said it has 2,600 [barbers, hairdressers, tattooers, and body piercers] on its mailing list for renotification.

REPRESENTATIVE KOTT recalled that a tattooer was placed on the [Board of Barbers and Hairdressers].

CHAIR MURKOWSKI asked if the 12-month requirement refers to practice in Alaska or anywhere. She recalled receiving a letter from someone with a shop outside [the state] who was unable to make the July 1 deadline due to work outside of Alaska.

MS. O'DELL clarified that this individual owns two shops, one in Anchorage and one in Idaho; although the practitioners in the Anchorage shop obtained their license, [the owner] can't return to practice in his own shop because he can't license his shop, since he isn't a licensed practitioner. In further response, she said that under the qualifications established by SB 34, she believes the 12-month practice requirement would refer to practice in Alaska or under a licensed practitioner in a state that has qualifications that meet those set forth in SB 34.

Number 1045

REPRESENTATIVE ROKEBERG referred to page 2, line 3, and asked if the "June 30, 2001" date was maintained because of the uncodified law in Section 3.

MS. O'DELL explained that it freezes the qualification date as set forth in SB 34; individuals would have to have been qualified for the license at the application deadline of July 1, 2001. In further response, Ms. O'Dell confirmed that the current 12-month period wouldn't qualify for experience. She said HB 443 doesn't intend to continue to extend the period for the transitional license.

CHAIR MURKOWSKI surmised that the Division of Occupational Licensing is fine with HB 443, as is the Board of Barbers and Hairdressers and the tattooers and body piercers.

MS. O'DELL informed the committee that the board doesn't meet again until October. Those on the board that "we" have spoken with are in support of HB 443, provided that the qualifications established under SB 34 are not changed.

Number 0933

MARY SIROKY, Manager, Information Education & Coordination, Division of Statewide Public Service, Department of Environmental Conservation (DEC), noted that she is the legislative liaison for the department. Mr. Siroky explained that under SB 34, the department was required to establish standards for sanitation and cleanliness for tattooing and body piercing, which it has done. She noted that the department doesn't have a problem with HB 443, although it put forth a fiscal note in order to renote the regulations to be in step with those regulations of [the Division of Occupational Licensing]. Therefore, the regulations won't be implemented until December 2002.

REPRESENTATIVE MEYER asked whether the department has \$3,000 to send out the notices without attaching a fiscal note.

MS. SIROKY answered that the department doesn't have any extra money; furthermore, if proposed cuts are maintained, the department won't have a program to inspect body-piercing and tattooing shops. In further response, Ms. Siroky explained that the \$3,000 would pay for the public notice in four journals and for postage for the mailing list. The original notice occurred in nine newspapers, but since this is a second notice, the number of newspapers in which the notice will run has been cut

back. Furthermore, the notice is provided on the public-notice pages on the state web site.

Number 0787

MS. SIROKY, in response to Chair Murkowski, said she didn't know how the 10-15 people slipped through, because notice was done in nine major papers and sent to those on the mailing list, and a press release was put out. In response to Representative Rokeberg, Ms. Siroky said they'd looked through the Yellow Pages.

CHAIR MURKOWSKI pointed out that many of those [who missed the notices] are located in the Matanuska-Susitna area.

MS. SIROKY acknowledged that there was no public notice done there. She assured the committee that this time there will be public notice there.

Number 0642

TODD GIPSON, Two Moons Tattooing, testified via teleconference, saying he'd spoken with many who knew these [regulations] were going through. Many people had discussed getting things in on time, while others said the state can't regulate this. Therefore, Mr. Gipson asked if those who are filing [are those who'd said the state can't regulate this industry].

CHAIR MURKOWSKI remarked that she didn't believe anyone knew who had been lost through the cracks.

Number 0583

LAURA IVANOFF, Two Moons Tattooing, testified via teleconference, informing the committee that she has spoken with many of those who had difficulty with the deadline. From those discussions, Ms. Ivanoff said [some believe] the State of Alaska can't regulate tattooing and piercing. Furthermore, [some believe] there is a grandfather right such that the Board of Barbers [and Hairdressers] can't tell tattooers and piercers what to do. When it has been explained that [the board and the state] can [regulate], however, he said "we" [support] this because of cross-contamination.

Number 0406

JOE SCHOOLCRAFT, Owner, Two Moons Tattooing, testified via teleconference, echoing the testimony of Mr. Gipson and Ms. Ivanoff in regard to the many people who don't believe [the state] has the power to regulate [tattooers and body piercers]. Mr. Schoolcraft said he didn't believe [HB 443] was fair for those who went [through the process under SB 34] and pushed for this. "The industry needs to be cleaned up," he charged.

JEFF MACAMBER testified via teleconference, speaking briefly in support of HB 443.

Number 0207

GAIL McCANN, Owner/Operator, The Electrolysis Clinic, testified via teleconference. She explained that The Electrolysis Clinic provides permanent hair removal and cosmetics; she said SB 34 and HB 443 impact more than those in the tattooing and body-piercing industries. Ms. McCann announced that she is in favor of passing HB 443 because she believes people should have the opportunity to continue their livelihood regardless of why they missed the original deadline. She related her belief that these three industries - tattooing, body piercing, and permanent cosmetics - need to have oversight. As the public becomes more informed, she believes those who are incompetent and don't follow the health standards will fall by the wayside.

TAPE 02-47, SIDE A
Number 0001

MS. McCANN remarked that all [three industries] need to follow the medically approved standards for sterilization so that practitioners are protected against the spread of communicable diseases. She urged support of HB 443.

Number 0121

KEVIN McKINLEY, Owner, Body Piercing Unlimited, testified via teleconference. Although he said people have done a good job trying to get everyone licensed, there is the possibility that some of the smaller businesses fell through the cracks, since this is the first time that this industry has been licensed. Mr. McKinley said he would hate to see people use this licensing [requirement] as a competitive tool in order to weed out [the smaller businesses]. He said he feels [HB 443] is a good thing for those who did miss the deadline. Furthermore, extending the deadline for six months isn't going to hurt anyone's business.

Number 0244

JEFFERY MARTIN, Muttley's Tattoo Clinic, testified via teleconference. He informed the committee that he hadn't received notification of the license application until a month after the deadline, even though he was on the mailing list; therefore, he'd gone to Representative Kohring's office and the meeting of the Board of Barbers and Hairdressers. Mr. Martin explained that if HB 443 doesn't pass, then not only will he lose his business, but four employees will lose their jobs. He emphasized that he more than met the requirements prior to July 1, 2001. He also emphasized that he is only requesting an extension of the application dates.

Number 0423

ANDY KOPCZENSKI, American Tattoo, testified via teleconference. Mr. Kopczenski said that [HB 443] looks good and that a six-month extension won't hurt anyone. In response to Representative Kott, Mr. Kopczenski affirmed that he was on the mailing list, was part of the inception of this application process, and had received notification.

CHAIR MURKOWSKI closed public testimony.

Number 0577

REPRESENTATIVE MEYER moved to report CSHB 443, version 22-LS1525\L, Lauterbach, 3/28/02, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 443(L&C) was moved out of 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 6:45 p.m.