

MINUTES
SENATE FINANCE COMMITTEE
April 25, 2002
9:46 AM

TAPES

SFC-02 # 77, Side A
SFC 02 # 77, Side B

CALL TO ORDER

Co-Chair Pete Kelly convened the meeting at approximately 9:46 AM.

PRESENT

Senator Dave Donley, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Jerry Ward, Vice Chair
Senator Gary Wilken
Senator Alan Austerman
Senator Lyman Hoffman
Senator Donald Olson
Senator Loren Leman
Senator Lyda Green

Also Attending: REPRESENTATIVE NORM ROKEBERG; DOUG WOOLIVER, Administrative Attorney, Office of the Administrative Director, Alaska Court System; DON DAPCEVICH, Consultant, Division of Alcoholism & Drug Abuse, Department of Health and Social Services; ANNE CARPENETTI, Assistance Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; JENNIFER YUHAS, staff to Representative Beverly Masek; JANET SEITZ, Staff to Representative Norm Rokeberg

Attending via Teleconference: From Anchorage: KERRY HENNINGS, Driver Licensing, Division of Motor Vehicles, Department of Administration; LINDA WILSON, Deputy Director, Public Defender Agency, Department of Administration; KEITH BAYHA, Chairman, Alaska Public Waters Coalition; Testifying Offnet: BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources; LIEUTENANT JULIA GRIMES, Department of Public Safety

SUMMARY INFORMATION

HB 4-DRUNK DRIVING& MOTOR VEHICLES/BOATS/PLANE

The Committee heard testimony from the sponsor, the Court System, the Department of Administration, the Department of Law, the Department of Public Safety, and the Department of Health and Social Services. A committee substitute and four amendments were considered and adopted, and the bill was held in Committee.

HB 421-WATER USE ACT PROCEDURES & RECORDS

The Committee heard testimony from the sponsor, the Department of Natural Resources, and took public testimony. The bill was held in Committee.

SB 239-STATE EMPLOYEES CALLED TO MILITARY DUTY

The Committee reported the bill from Committee.

#HB4

SENATE CS FOR CS FOR HOUSE BILL NO. 4(JUD)

"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or watercraft; and providing for an effective date."

This was the fourth hearing for this bill in the Senate Finance Committee.

DOUG WOOLIVER, Administrative Attorney, Office of the Administrative Director, Alaska Court System, noted a zero fiscal note accompanies the bill. He stated the Department does not anticipate any further issues to result from changes to "more clearly define the role of the Therapeutic Court."

KERRY HENNINGS, Driver Licensing, Division of Motor Vehicles, Department of Administration, testified via teleconference from Anchorage regarding cost concerns resulting from the bill's extended mandatory SR 22 insurance coverage requirement. She informed the Committee the cost of SR 22 insurance for a first time offender averages "from \$4,000 to \$6,000 per year for an average family of four with one child of driving age." She continued that currently a first time offender must carry SR 22 insurance for three years, and that the cost would increase to \$7,000 per year for a second offense, and higher for a third offense. She stressed that expanding the time requirement for offenders to carry SR 22 insurance might result in "more uninsured drivers on the road" due

to the additional expense of the insurance. She urged the Committee to maintain the current three-year SR 22 requirement for first offenders instead of the proposed five-year requirement.

LINDA WILSON, Deputy Director, Public Defender Agency, Department of Administration testified via teleconference from Anchorage to address the agency's concern about the "significant increased penalties" proposed in this bill; specifically that the minimum mandatory fine for a misdemeanor Driving Under the Influence (DUI) conviction would be increased six-fold, in graduated increments, for first and repeated offenders, and "significantly increases the mandatory minimum fines for felony DUI" from \$5,000 to \$10,000. She stressed that the committee substitute additionally allows for the permanent revocation of an individual's license for a felony DUI or refusal to take a chemical test; doubles the license reinstatement fee for repeat DUI offenders; and mandates proof of insurance to be shown when a convicted offender registers a vehicle. She stated, "all of these increased penalties, in addition to the mandatory vehicle forfeiture for felony DUI refusals, are certainly very significant." She urged the Committee to not enact this legislation until the effects of other legislation, such as the lowering of the blood alcohol by weight limit, are determined.

DON DAPCEVICH, Consultant, Division of Alcoholism & Drug Abuse, Department of Health and Social Services, voiced appreciation to Representative Norm Rokeberg, the bill's sponsor, for presenting this legislation. He noted the Department of Health and Social Services has "no fiscal note attached to this bill as there are no additional requirements placed on the Division for service delivery;" however, he cautioned that the FY 03 Operating Budget, being considered by the Legislature, "has a significant decrease in the grant delivery system." He urged the Committee to approach the drunk driving issue being aware that if a quality treatment delivery system were not in place, none of this would work for "if you don't treat the cause of the problem, you will not have success."

AT EASE 9:56 AM / 9:57 AM

Co-Chair Donley moved for adoption of SCS CS HB 4, 22-S0046\Q as a working draft.

Co-Chair Kelly clarified that Version "Q" addresses the discussions and concerns voiced during the meeting of April 17, 2002.

There being no objections, the committee substitute was ADOPTED as a working draft.

Amendment #18: This amendment deletes language on page 16, line 15 of the Version "E" committee substitute and inserts new language to read as follows.

"(a) Except as provided under (s) of this section, a [A] person commits the crime of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance [INTOXICATED] if the person operates or drives a motor vehicle or operates an aircraft or a watercraft."

In addition, the amendment deletes language on page 16, line 29 and inserts new language to read as follows.

"(b) Except as provided under (n) of this section, driving while under the influence of an alcoholic beverage, inhalant, or controlled substance under (a) or (s) of this section [INTOXICATED] is a class A misdemeanor. Except as provided under (q) of this section, upon [UPON] conviction:"

New Text Underlined [DELETED TEXT BRACKETED]

This amendment also inserts a new subsection on page 22, following line 10, to read as follows.

"(s) A person commits the crime of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance if the person has been previously convicted two or more times of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and operates or drives a motor vehicle or operates an aircraft or a watercraft when, as determined by a chemical test taken within four hours after the alleged offense was committed, there is a 0.04 percent or more by weight of alcohol in the person's blood or 40 milligrams or more of alcohol per 100 milliliters of blood, or when there is 0.04 grams or more of alcohol per 210 liters of the person's breath."

Senator Ward noted the amendment is drafted for Version "E," although the meaning of the amendment for either version. He moved for adoption of the amendment.

Co-Chair Kelly inquired if the amendment would fit into the newly adopted Version "Q."

Senator Ward believed it would; however, if not, he would entertain a conceptual amendment.

Co-Chair Kelly stated the amendment's proper placement into the newly adopted version should be scrutinized.

Senator Ward stated he is presenting Amendment #18 to the Committee instead of to the full Senate as he feels this is the appropriate place for the decision to be made.

Senator Ward informed the Committee he has listened to "drunk driving legislation" for twenty years, and it is still an issue. He stated this legislation would not prevent people from drinking; however, through this amendment, he is "identifying that there are some people ... in society that are alcoholics and they're a problem." He stressed the potential danger to others that a drinking individual presents when driving a car. He explained that commercial drivers and aircraft pilots are held to a 0.04 limit for blood alcohol content levels and this amendment would expand the 0.04 limit to include any driver who is convicted more than two times for a DUI. He opined that a person arrested a third time for a DUI should be considered "an alcoholic" and should not be able to have that first drink; for, as alcoholics, they would not be able to stop at one.

Senator Ward stated that the current 0.08 level would allow a person to have a drink and still drive; however, lowering the third offense level to 0.04 would effectively prohibit a person from having one drink and then driving. Senator Ward reiterated that an alcoholic could not stop at one drink.

AT EASE 10:03 AM / 10:04 AM

Co-Chair Kelly voiced concern this amendment might incur additional fiscal impacts.

ANNE CARPENETI, Assistance Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, stated this amendment "would make conduct that is not currently a crime a crime;" and therefore would result in significant fiscal impact. She informed the Committee there is no time limit proposed in the amendment and questioned "how far back" a person's DUI record could be accessed. She stated she did not have information regarding how many people this amendment would affect.

Senator Ward asked what the number of "three-time DUI drivers" is annually in the State.

Ms. Carpeneti responded she did not have that information with her.

REPRESENTATIVE NORM ROKEBERG, the bill's sponsor, informed the

Committee that the Department of Public Safety statistics for the prior ten years denotes 2,506 three-time convicted DUI drivers. He calculated this would average 250 per year.

Co-Chair Donley stated "the real question" is how many three-time DUI drivers would have registered below the current 0.08 blood alcohol limit, but above a 0.04 content.

Representative Rokeberg communicated that the Department of Public Safety's figures are based on the 0.10 blood alcohol content that was the previous State mandated level. He furthered that the Department anticipates a five percent increase over these numbers for the recently adopted 0.08 blood alcohol content number.

Senator Ward calculated that approximately fifty people a year would be arrested a third time with a 0.04 level. He reiterated the need to stop two-time DUI offenders from drinking that first drink and driving. He defended the 0.04 blood alcohol content level as reasonable for third time offenders.

Senator Leman voiced support for Senator Ward's comments; however, wished to clarify that exceeding the 0.04 blood alcohol content would not be the only way for a third time offender to receive a conviction, as demonstrated impairment would also suffice.

Senator Ward agreed the amendment's language would allow that, but reiterated that lowering the limit addresses those individuals "who are not capable of taking the first drink."

Co-Chair Kelly requested no action be taken on this amendment until the fiscal note impact is determined. He also noted that Amendment #18 does not draft to the recently adopted Version "Q;" however, this could be remedied by means of a conforming motion.

Senator Ward WITHDREW his motion for adoption of Amendment #18.

Senator Hoffman stated that more aggressive funding for alcohol and drug abuse programs would assist in preventing people from getting their third DUI; thereby, helping to save lives.

Senator Ward stated he does not disagree with that comment.

Co-Chair Donley reminded the Committee there are several proposed amendments to Version "Q," one of which would require proof of insurance to be in the vehicle.

Co-Chair Kelly stated, based on previous discussions, that the intent of that proposed amendment should be addressed in separate

legislation.

Co-Chair Donley explained the proposed amendment differs from those previously discussed, as it does not require proof of insurance at time of motor vehicle registration.

AT EASE 10:13 AM / 10:15 AM

Amendment #19: This amendment addresses technical changes in the bill by deleting "or AS 28.35.030" and inserting ", AS 28.35.030, or 28.35.032" on page 30, line 18 and line 21 of the Version "Q" committee substitute.

Co-Chair Donley offered a motion to adopt Amendment #19.

There being no objections, Amendment #19 was ADOPTED.

Amendment #17: This amendment inserts language on page 12, line 11 of the committee substitute to read as follows.

"(c) Notwithstanding any other provisions of this chapter, a person convicted of driving under the influence of an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.35.030 or convicted of refusal to submit to a chemical test or breath under AS 28.35.032, shall maintain proof of financial responsibility for the future for (1) five years if the person has not been previously convicted; (2) 10 years if the person has been previously convicted once; (3) 20 years if the person has been previously convicted twice; (4) for as long as the person is licensed to drive under AS 28.15 if the person has been previously convicted three or more times. In this subsection, 'previously convicted' has the meaning given in AS 28.35.030."

Co-Chair Donley moved for adoption of Amendment #17. He explained this amendment would conform provisions in the existing committee substitute to existing law.

There being no objections, Amendment #17 was ADOPTED.

Senator Green inquired if there were current fiscal notes for the most recently adopted committee substitute.

Co-Chair Kelly identified the current fiscal notes as follows: the Court System dated 4/15/02 at zero; the Department of Public Safety dated 4/10/02 for \$105,500; the Department of Corrections dated 4/24/02 for \$100,000; a zero fiscal note for the Department of Health and Social Services dated 4/01/02; the Senate Finance

Committee revised Department of Law fiscal note dated 4/24/02 for \$138,000; the Department of Administration, Division of Motor Vehicles dated 4/24/02 for \$59,440; and the Department of Administration, Division of Public Defender dated 4/24/02 for \$135,600 for a total expense of \$538,500. He stated revenue projections for this bill are indeterminate; however, the Department of Law and Department of Revenue tentatively project revenues of \$347,500. He clarified that the revenue generated could offset the expenses of enacting this bill.

Representative Rokeberg stated he had notified the Committee that adjustments could be made to the Department of Law's fiscal note, and he stated there is approximately \$8 million of indeterminate revenue available in this bill, which could, "in worst case scenario," close the expense and revenue gap. He noted such things as the increased fines for a first offense DUI could generate significant revenue.

Co-Chair Kelly reiterated that the bill's revenues might offset the expenses the Amendment #18 might incur.

Representative Rokeberg concurred and stated that perhaps an increase in the Wellness Court budget might allow Amendment #18 to be considered, although there are some structural revisions the amendment would need. He exemplified that, as currently worded, Amendment #18 indicates a "lifetime" timeframe for determining the third DUI offense.

Senator Austerman asked for clarification on the total associated fiscal notes.

Co-Chair Donley stated the fiscal notes amount to approximately "half a million dollars;" however, he noted that considerably more revenue could be generated by the bill than the Department's projections indicate as the revenue is indeterminate.

Representative Rokeberg interjected that the current notes reflect a net expense of \$133,000.

Co-Chair Kelly noted this net expense is factored with indeterminate revenue.

Senator Austerman voiced concern that the Legislature is expending intense efforts to develop a FY 03 operating budget with the goal "of not spending more than" was spent in FY 02, and he asserted he does not want funding to support this bill to undermine funding for other Departments.

Co-Chair Kelly cited there is "only a \$133,000 net expense" reflected which should be offset by projected revenues from increased fines. He furthered that the indeterminate revenue would probably exceed projections.

Senator Hoffman declared that the goal of the bill should be to receive less fines and have fewer repeat offenders rather than to generate more revenue from fines levied on offenders. He furthered that increasing funding for alcohol and drug abuse treatment programs could assist in rectifying the problem. He noted that approximately \$3 million dollars is needed to adequately fund the Department of Health and Social Services treatment programs. He stated that the Committee "is going at the wrong end of the spectrum," and "it is good to be tough on crime, but we need to give those people a chance, before they become criminals and before they kill somebody, not after the fact."

Co-Chair Donley stated the proposed operating budget increases funding for the Court System, the Department of Public Safety, and the Department of Corrections. He commented that a three-quarters vote is needed to access the Constitutional Budget Reserve (CBR). He asked Senator Hoffman if he would be one of the three quarters of the members to vote to access the CBR if funding for alcohol and drug treatment programs were restored to FY 02 levels in the FY 03 operating budget.

Senator Hoffman stated, "I certainly will be one of them, Mr. Chairman."

Co-Chair Donley stated this is something that could be discussed although a funding source would need to be identified. He commented that drug and alcohol treatment programs appear to be a priority of Senator Hoffman's as he has voiced concern for these programs numerous times. Co-Chair Donley commented that if these programs were a priority to Senator Hoffman, then efforts could be undertaken to find funding for those programs.

Senator Hoffman responded he could keep his program requests to a minimal.

The bill was SET ASIDE. [This bill was re-addressed later in the meeting.]

#HB421

SENATE CS FOR CS FOR HOUSE BILL NO. 421(RES)

"An Act relating to requiring the Department of Natural Resources to develop and maintain a standardized procedure for processing applications and issuing permits, authorizations, and certifications under the Alaska Water Use Act and to make a record of those items and amendments and orders affecting them available on the Internet."

This was the first hearing for this bill in the Senate Finance Committee.

JENNIFER YUHAS, Committee Aide to Representative Beverly Masek, Co-Chair of the House Resources Committee the sponsors of this bill, informed the Committee the current committee substitute for this bill has a more specific title than the version passed out of the House of Representatives.

Ms. Yuhas shared with the Committee that statutes enacted in FY 02 resulted in new Department of Natural Resources regulations, and, during that legislation process, it was revealed that Alaska's citizens were unhappy with the difficulty in accessing public records and the "haphazard nature" of water rights, water uses, and water appropriation issuances. She stated this bill directs the Department to develop a standardized water right and use procedure and to make records available to the public.

Senator Wilken characterized the problems associated with the recent Fairbanks' Ester Dome water project as a "rat's nest," and voiced strong support for the bill.

Ms. Yuhas relayed that the sponsor requested the Senate Finance Committee to address concerns pertaining to the Department of Natural Resources fiscal note. She shared that the Department had been allocated \$300,000 in FY 02 with the expectation of receiving an additional \$300,000 in FY 03 to specifically address the backlog in the water rights adjudication program. She stated the sponsor's opinion that the Department of Natural Resources fiscal note dated 3/22/02 in the amount of \$75,000 would not be necessary as this amount could be funded from the existing \$300,000 allotment.

BOB LOEFFLER, Director, Division of Mining, Land and Water, Department of Natural Resources, testified offnet to voice the Department's general support of this bill. He stated the Department oversees the water rights program. He explained that the Department's antiquated computer system makes it difficult for the Department to easily supply summary information to the public.

Mr. Loeffler specified that the Department's fiscal note for

\$75,000 would fund a contract with the Information Resource Management programmers to make public information available on the Internet as required in the bill. He also noted the Division would be fully staffed in FY 03 to address the backlog; however, if the \$75,000 were subtracted from the allotment, some staff would need to be laid off.

Senator Leman inquired as to what the Division did with the \$300,000 FY 02 allotment.

Mr. Loeffler responded that the \$300,000 increment was used to address the water right permit backlog, and the expectation is that at the end of FY 02, a new typical water use permit application would be processed within 60 days of receipt and a typical temporary water use permit would be processed within 20 days. He informed the Committee that between 40 and 50 permits were processed in April and that between the months of January and March, a total of approximately 100 water right permits had been processed, matching the total number processed the prior fiscal year.

Senator Wilken inquired how the Ester Dome project would have benefited if this legislation had been in effect three years ago.

Mr. Loeffler stated this legislation would have allowed the Division to more quickly retrieve the summary information from the computer system.

KEITH BAYHA, Chairman, Alaska Public Waters Coalition, testified via teleconference from Anchorage. He informed the Committee that the Coalition consists of sport fishing groups, conservation groups, some Alaska Water Board members, and other people concerned about how this legislation might impact the public "while furthering special interests at the expense of the public interest." He stated support for the House of Representative's version of the bill, and voiced disapproval of the Senate's amendments to it, which require individuals seeking water use permits to additionally acquire "meaningless" permits from the Department of Fish and Game.

Mr. Bayha voiced that this bill needs "further improvement" and noted that the coalition's principle concern is that the term "standardized procedure" lacks definition." He feared that without this term being further defined, the bill "might result with a procedure and a date retrieval system that still may not be user friendly and capable of being used by citizens who desire to utilize the data base to perform investigative searches and analysis."

Mr. Bayha offered various suggestions for amendments to the bill including in-stream flow and temperature evaluations in determining permits.

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Mr. Bayha stressed that procedures should be addressed to provide easy and efficient access to water rights information and the Department's internet site should include such things as adequate notice of actions relating to changes in water rights. He summarized that the coalition supports the House of Representative's version of the bill, and asked for consideration of the Coalition's concerns and suggestions.

Senator Hoffman asked when the information specified in this bill would be available on the Internet if the bill were passed.

Co-Chair Kelly noted that information would be forthcoming.

Ms. Yuhas clarified that amendments to the bill do not require an applicant to apply for a permit from the Department of Fish and Game, but rather to receive "concurrence on the use of the water."

Ms. Yuhas additionally expressed that citizen complaints at a public hearing both she and Mr. Loeffler attended, focused on not being able to access paper files for water rights in the same city in which they had been applied for, and did not focus on issues resulting from an archaic computer system.

Co-Chair Kelly ordered the bill HELD in Committee in order to further address the fiscal notes.

#HB4

SENATE CS FOR CS FOR HOUSE BILL NO. 4(JUD)

"An Act relating to motor vehicles and to operating a motor vehicle, aircraft, or watercraft; and providing for an effective date."

[This bill was heard earlier in the meeting.]

LIEUTENANT JULIA GRIMES, Department of Public Safety, explained to

the Committee that Amendment #18 would have a fiscal impact on the Department. She stated it would result in approximately 123 additional convictions with administrative fees generating approximately \$27,100 in revenue. She stated this revenue, combined with the current projected administrative revenue fees of \$57,200 would total \$84,300. She estimated there would be 383 convictions that would incur approximately \$21,600 in long distance vehicle transportation charges and \$3,500 in short distance transportation charges and approximately \$6,000 in vehicle storage expenses.

Co-Chair Kelly summarized that the bill's total impact on the Department would be "a virtual wash," as the new revenue and expenses were approximately equal.

Senator Hoffman noted the Department has indicated the confiscated vehicles would be auctioned or donated to non-profits, which "would alleviate the cost of the transportation." He stated this language is already incorporated into the bill.

Co-Chair Kelly agreed.

Senator Green commented that transportation expenses should be a consideration as some of the areas are quite remote.

Amendment #18: This amendment was detailed previously in the minutes.

Senator Ward clarified that changes are required to conform to the Version "Q" committee substitute and moved for adoption.

Senator Wilken objected out of concern this amendment would jeopardize the bill's progression through this year's Legislature.

Senator Ward opined this amendment would move the bill forward faster. He expressed that "there are some people currently in jail who have hurt others because they had a drink and drove." He reiterated that there are those individuals who cannot stop drinking after one drink.

Senator Wilken expressed that his concern with the amendment is limited to its affect on the bill's passage. He stated he "is totally supportive of the amendment and also totally supportive of the bill."

Senator Green inquired as to what affect one drink would have on a person's blood alcohol level.

Senator Ward stated that one drink would result in a 0.04 blood

alcohol reading and that two drinks would result in a 0.08 reading.

Co-Chair Kelly clarified that would be the case for a small person.

Senator Green suggested that if 0.04 is an "arbitrary" level, perhaps the language should read that anything above a 0.00 blood alcohol level reading should be subject to an offense.

Co-Chair Donley stated 0.04 is a reasonable level as research indicates that signs of impairment begin at 0.05. He continued that the commercial standard is 0.04 blood alcohol level. He also stated that body size is a factor, and surmised that 0.04 would allow a person to have a drink and wait a while before driving. He reiterated 0.04 is a reasonable standard.

Senator Ward clarified that the 0.04 level would only apply to people who have two drunk driving convictions.

Senator Wilken reiterated his concern this amendment might hamper the bill's progress in the Legislature.

Co-Chair Kelly commented the Senate appears to have "no problem" with the amendment.

JANET SEITZ, Staff to Representative Norm Rokeberg, voiced concern the amendment would slow the bill down, might generate a Department of Corrections' fiscal note totaling approximately \$885,000, and might generate additional fiscal notes from the Department of Law and the Public Defenders office.

Senator Wilken stated he would co-sponsor a bill the next Legislative session pertaining to the intent of Senator Ward's amendment. He stressed his desire to not jeopardize the bill this session.

Senator Ward insisted the amendment be voted on by the Committee and contended this bill would generate fiscal notes even without this amendment. He asserted that if you tell an alcoholic they "can have a drink, then they are going to have the second drink, and we're going to kill people."

A roll call was taken on the motion.

IN FAVOR: Senator Green, Senator Leman, Senator Ward, Senator Austerman, Co-Chair Donley, Co-Chair Kelly

OPPOSED: Senator Hoffman, Senator Olson, Senator Wilken

The motion PASSED (6-3)

Amendment # 16: This amendment deletes language and adds language to page 5, lines 1 and 3 to read as follows

(2) motor vehicle involved in the commission of an offense under AS 28.15.291; [~~;~~ or]

(3) motor vehicle used by a person whose license is suspended under AS 28.22.041; or [.]

(4) motor vehicle used by a person who fails to carry proof of insurance as required by AS 28.22.019.

New text underlined [BRACKETED TEXT DELETED]

This amendment additionally inserts a new bill section on page 12, following line 16 to read as follows.

*Sec. 20. AS 28.22 is amended by adding a new section to read:
Sec. 28.22.019. Proof of insurance to be carried and exhibited on demand.

(a) A person shall have proof of motor vehicle liability insurance in the person's immediate possession at all times when driving a motor vehicle, and shall present the proof for inspection upon the demand of a peace officer or other authorized representative of the Department of Public Safety. However, a person charged with violating this section may not be convicted if the person produces in court or in the office of the arresting or citing officer proof of motor vehicle liability insurance previously issued to the person that was valid at the time of the person's arrest or citation.

(b) A municipality may adopt an ordinance

(1) requiring a person to display a decal on the person's motor vehicle indicating compliance with (a) of this section; or

(2) that is substantially similar to (a) of this section and may impose a penalty for violating the ordinance as provided under AS 29.25.070.

(c) In this section, "proof" means a copy of the insurance policy that is in effect or a printed card or electronic certification from an insurance company, insurance agent, insurance broker, or surplus lines broker that a policy that complies with AS 28.22.011 is in effect.

Co-Chair Donley offered a motion to adopt Amendment #16. He explained this amendment would require that proof of insurance be carried in a motor vehicle, and would also allow local governments to adopt and enforce the same requirement if they desire.

Senator Green objected.

Senator Lemman voiced the understanding that current law does not require someone to have insurance; "it requires a person to prove financial responsibility, of which insurance is one of the them."

Co-Chair Donley stated this is "not true." He explained that if a person chooses not to carry liability insurance on their vehicle; they could acquire a Certificate of Self-Insurance from the Department of Administration.

Senator Lemman asked if acquiring the Certificate of Self-Insurance would satisfy the provisions set forth in Amendment #16.

Co-Chair Donley noted it would.

Senator Olson considered the amendment cumbersome for those individuals owning several vehicles because having the appropriate card for each vehicle would sometimes be confusing, thereby causing a person to feel "less than law-abiding" when they had the wrong card. He voiced his lack of support for the amendment.

Co-Chair Kelly questioned how this language differs from prior discussions.

Co-Chair Donley stated language in previously adopted Amendment #4 required proof of insurance at time of registration.

Senator Wilken declared he would not support this amendment if it would slow this bill down.

Co-Chair Donley affirmed that Alaska law already requires drivers to have vehicle insurance. He noted that insurance companies provide insurance cards for each vehicle and those would suffice as proof of insurance.

Senator Wilken inquired if this amendment would generate additional fiscal notes.

Co-Chair Donley responded the amendment does not require any more State paperwork as citizens are supposed to have insurance now; therefore, there should not be any additional fiscal notes. He noted that the local government requirement for requiring proof of insurance is an option and would have no bearing on the State.

Senator Green commented that having "a piece of paper" in the vehicle does not indicate that the vehicle "has active insurance," as insurance could be cancelled after the insurance card is

received.

Senator Hoffman inquired what the penalties would be for not having the required paperwork.

Co-Chair Donley stated the requirement would raise public awareness that there is a requirement to have vehicle insurance. He explained that in the current process, individuals are required to sign an affidavit stating they have insurance, but many "just sign it" and do not know what they are signing. He shared with the Committee that research indicates that approximately 18 percent of drivers do not have vehicle insurance. He stressed that raising the awareness level and that lowering this percentage even one or two percent would be a "big deal" and be good public policy.

Senator Hoffman inquired what the penalties would be.

Co-Chair Donley noted that if a person could not produce the insurance coverage card, the penalty would be the same as if no insurance were in effect.

Co-Chair Donley moved to amend Amendment #16 to insert the language "or certificate of self-insurance" on page 2, line 4, section (c) following the language, insurance policy in response to Senator Leman's comment about a Certificate of Self-Insurance being an acceptable proof of insurance.

Senator Green noted that obtaining insurance coverage for a vehicle purchased on a weekend would be a difficult burden on someone.

Senator Olson asked if there is a definition of a motor vehicle in the bill.

Co-Chair Donley stated the definition of a motor vehicle is identified in the Mandatory Insurance Act Regulation, which also identifies which regions of the State are affected.

Senator Olson reiterated the difficulty in keeping track of coverage on multiple vehicles. He added that people in small communities often do not have insurance coverage on their vehicles nor are some vehicles even registered.

A roll call was taken on the motion.

IN FAVOR: Senator Austerman, Senator Wilken, Senator Ward, Co-Chair Donley

OPPOSED: Senator Green, Senator Hoffman, Senator Olson, Senator

Leman, Co-Chair Kelly

The motion FAILED (4-5)

Co-Chair Kelly indicated intent to reconsider his vote on the amendment.

Co-Chair Donley moved to rescind the Committee's action in failing to adopt Amendment #16.

Senator Leman objected.

A roll call was taken on the motion.

IN FAVOR: Senator Austerman, Senator Ward, Senator Wilken, Co-Chair Donley, Co-Chair Kelly

OPPOSED: Senator Green, Senator Hoffman, Senator Olson. Senator Leman

The motion PASSED (5-4)

The action failing to adopt Amendment #16 was RESCINDED.

Co-Chair Donley moved for adoption of Amendment #16.

A roll call was taken on the motion.

IN FAVOR: Senator Ward, Senator Wilken, Senator Austerman, Co-Chair Donley, Co-Chair Kelly

OPPOSED: Senator Green, Senator Hoffman, Senator Leman, Senator Olson

The motion PASSED (5-4) and Amendment #16 was ADOPTED.

Co-Chair Donley offered a motion to "move the new Finance Committee Substitute and adopted amendments for House Bill #4 from Committee with individual recommendations and all the accompanying..."

Co-Chair Kelly interjected that the appropriate fiscal notes have been identified.

Co-Chair Donley offered the language "as the revised fiscal notes package as consistent with the Chairman's records."

Co-Chair Kelly clarified the appropriate language to be "with the Chairman's fiscal analysis attached."

Co-Chair Donley concurred.

Senator Green objected and stated this bill is too onerous. She stated, as a "practicing teetotaler," she has an aversion to drunk driving, but does not feel this bill addresses the concerns.

Co-Chair Kelly asserted that the passage of this bill from the Committee would "be negligent" as the Department of Public Safety fiscal note is questionable.

Co-Chair Donley noted the Committee could generate and adopt a fiscal note for the Department of Public Safety.

Senator Hoffman additionally noted that the sponsor is not present to address the ramifications of the adopted amendments.

Co-Chair Donley offered a motion to withdraw his motion to report the bill from Committee.

There being no objections, the motion to report the bill from Committee was WITHDRAWN.

The bill was HELD in Committee.

#SB239

SENATE BILL NO. 239

"An Act relating to state employees who are called to active duty as reserve or auxiliary members of the armed forces of the United States; and providing for an effective date."

This was the second hearing for this bill in the Senate Finance Committee.

Senator Wilken offered a motion to report "SB 239 from Committee with individual recommendations and attached indeterminate fiscal note."

Co-Chair Kelly informed the Committee that the Agency's analysis provides information substantiating the indeterminate fiscal note.

There being no objections, SB 239 REPORTED from Committee with an indeterminate fiscal note dated 4/22/02 from the Department of Administration.

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ADJOURNMENT

Co-Chair Pete Kelly adjourned the meeting at 11:16 AM