

**ALASKA STATE LEGISLATURE  
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES  
STANDING COMMITTEE**

February 5, 2004  
3:03 p.m.

**MEMBERS PRESENT**

Representative Peggy Wilson, Chair  
Representative Carl Gatto, Vice Chair  
Representative John Coghill  
Representative Paul Seaton  
Representative Kelly Wolf  
Representative Sharon Cissna (via teleconference)

**MEMBERS ABSENT**

Representative Mary Kapsner

**COMMITTEE CALENDAR**

HOUSE BILL NO. 378

"An Act relating to the Alaska Food, Drug, and Cosmetic Act, including sales, advertising, certain devices, food donors, and food banks; making certain violations of organic food provisions and of the Alaska Food, Drug, and Cosmetic Act unfair methods of competition and unfair or deceptive acts or practices under certain of the state's unfair trade practices and consumer protection laws; and providing for an effective date."

- MOVED CSHB 378 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 337(STA)

"An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to an anatomical gift awareness program, to motor vehicle licenses and registrations, and to state identification cards."

- MOVED CS 337(HES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 378

SHORT TITLE: FOOD, DRUGS, COSMETICS, CERTAIN DEVICES  
REPRESENTATIVE(S):

01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) HES, JUD  
02/05/04 (H) HES AT 3:00 PM CAPITOL 106

BILL: HB 337

SHORT TITLE: ANATOMICAL GIFTS REGISTRY

REPRESENTATIVE(S): MCGUIRE

01/12/04 (H) PREFILE RELEASED 1/2/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) STA, HES, FIN  
01/20/04 (H) STA AT 8:00 AM CAPITOL 102  
01/20/04 (H) Heard & Held  
01/20/04 (H) MINUTE(STA)  
01/27/04 (H) STA AT 8:00 AM CAPITOL 102  
01/27/04 (H) Moved CSHB 337(STA) Out of  
Committee  
01/27/04 (H) MINUTE(STA)  
01/27/04 (H) HES AT 3:00 PM CAPITOL 106  
01/27/04 (H) -- Meeting Canceled --  
01/28/04 (H) STA RPT CS(STA) NT 6DP 1NR  
01/28/04 (H) DP: GRUENBERG, SEATON, HOLM, LYNN,  
01/28/04 (H) BERKOWITZ, WEYHRAUCH; NR: COGHILL  
02/03/04 (H) HES AT 3:00 PM CAPITOL 106  
02/03/04 (H) Heard & Held  
02/03/04 (H) MINUTE(HES)  
02/05/04 (H) HES AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE BILL WILLIAMS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as sponsor of HB 378.

GERALDINE MCINTOSH, Staff

to Representative Bill Williams

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on HB 378 and answered questions from the members.

ELISE HSIEH, Assistant Attorney General

Environmental Section

Department of Law

Anchorage, Alaska

POSITION STATEMENT: Testified on HB 378 and answered questions from the members.

ROBIN NORTHSEYER, Owner  
Northern Hospitality Training  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 378.

HEATH HILYARD, Staff  
to Representative Lesil McGuire  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented an amendment to CSHB 337(STA) for Representative McGuire, sponsor, and answered questions from the members.

RAY VIDIC  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 337.

#### **ACTION NARRATIVE**

#### **TAPE 04-09, SIDE A**

Number 0001

**CHAIR PEGGY WILSON** called the House Health, Education and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Wilson, Wolf, Coghill, and Seaton were present at the call to order. Representatives Gatto and Cissna (via teleconference) joined the committee as the meeting was in progress.

#### HB 378-FOOD, DRUGS, COSMETICS, CERTAIN DEVICES

Number 0091

CHAIR WILSON announced that the first order of business would be HOUSE BILL NO. 378, "An Act relating to the Alaska Food, Drug, and Cosmetic Act, including sales, advertising, certain devices, food donors, and food banks; making certain violations of organic food provisions and of the Alaska Food, Drug, and Cosmetic Act unfair methods of competition and unfair or deceptive acts or practices under certain of the state's unfair trade practices and consumer protection laws; and providing for an effective date."

REPRESENTATIVE BILL WILLIAMS, Alaska State Legislature, testified as sponsor of HB 337, spoke to the merits of the bill. He explained that he has been the House Finance Subcommittee Chair for the Department of Environmental Conservation (DEC) for several years. During that time there have been complaints concerning the food safety program, particularly in Ketchikan where [businesses] have paid a lot, but have not had the inspections necessary to ensure food safety. Representative Williams told members that some businesses have gone 18 months to 24 months without inspections. He said that last year he asked the Commissioner of Environmental Conservation to come up with a program that would address this issue, and the bill before them today does just that.

Number 0325

GERALDINE McINTOSH, Staff to Representative Bill Williams, Alaska State Legislature, testified on HB 378 and answered questions from the members. She read the sponsor statement into the record as follows [original punctuation provided]:

HB 378 amends provisions in Title 17 relating to the powers of the Commissioner of the Department of Environmental Conservation (DEC) relating to food offered or sold to the public. The bill makes it possible for DEC to require food-handling operators to become trained and certified and assess fines. Both of these capacities are needed as part of the new food safety paradigm - Active Managerial Control. In addition, the bill defines a violation of labeling or advertising as a violation of the unfair trade and consumer protection provisions.

Currently, AS 17.20.005 allows the Commissioner of DEC to issue orders, regulations, permits, embargoes, and quarantines. This includes inspection, sanitation standards, food handling methods, and labeling. Under this bill, the Commissioner of DEC will have additional authority to ensure knowledge of food safety and sanitation by individuals who handle or prepare food for the public, and persons who supervise or employ those individuals. This bill also authorizes DEC to impose a civil fine for a

violation of the Alaska Food, Drug, and Cosmetic Act.

HB 378 also clarifies that a violation of the label or advertisement provisions in AS 17.20, or a violation of the representation requirement in AS 17.06 is an unfair or deceptive trade practice under Alaska's Statutes. This will allow the Attorney General's office to investigate labeling violations that are not food safety or sanitation concerns.

Number 0481

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation, testified in support of HB 378. In response to Chair Wilson's comments that this program appears to be a case of the "fox guarding the chicken house", Ms. Ryan explained that in the past the Division of Environmental Health has relied entirely on inspections to ensure that restaurants and food processors were practicing safe food handling techniques. Unfortunately, by only relying on inspections, the division was only in the high-risk facilities 60 percent of the time, once per year. One day out of 365 days per year is not enough to ensure [that these businesses] were using the same techniques when [inspectors] were not there.

Number 0586

MS. RYAN told the members that the division researched what other jurisdictions have done [who have similar limitations in manpower], and that is how the Active Managerial Control plan came about. She said that this plan puts more responsibility on the owners and operators of establishments to take responsibility for safe food handling. This would be a more comprehensive program that would allow the division more time to concentrate on inspections, she commented. Ms. Ryan explained that the businesses will be asked to train and certify staff in basic food handling practices and to develop standard operating procedures for very simplistic practices such as, hand washing after handling money or how to handle a sick employee. Those procedures will have to be in writing and available to the division for review when doing inspections and paper audits, she said.

CHAIR WILSON asked who will be paying for the training.

MS. RYAN replied that there are multiple levels of certification. For example, she said, there are certifications for managers, and every food facility must have one manager employed by the company that has gone through a national food safety certification program. Ms. Ryan added that many restaurants already have trained staff. She summarized that the division will work to make it easier for businesses to get their employees certified.

MS. RYAN told the members that another level of certification is for food handlers. Handler certification will be undertaken by the state through an on-line data base system, whereby [the food handler] would log onto a computer and get the training on-line. This [training and certification] will be available to anyone and is really fundamental [information], she said. Ms. Ryan commented that this [plan] is something that 41 states already do.

Number

MS. RYAN said the third training that DEC will provide concerns the development of standard operating procedures that the department will be requiring [of businesses]. The inspectors will not only be out inspecting [businesses], but will also be helping them come into compliance with the new requirements, she said. Ms. Ryan told the members that the department got a grant from the Food and Drug Administration (FDA) to create a CD that will give [businesses] all the forms that will be necessary to create their own [standard operating procedures].

Number 0733

CHAIR WILSON commented that her concern is for small businesses [and the burden this plan may have on them]. She asked if, for example, a group of people holding a fundraiser where hotdogs are being cooked will be required to have this training [and certification] too.

MS. RYAN replied that the temporary food service permit will continue as it currently is. Those who provide food for fairs, church socials, etc. have to come in and go through the temporary food service permit process which is currently in place. That [temporary food service] permit

does require participants to sit through a two-hour course, she said. The permit is good for 2 years.

CHAIR WILSON asked how the example she provided fits into this program.

MS. RYAN responded that individuals in Chair Wilson's example would not fit into the new paradigm.

CHAIR WILSON asked for clarification that it would not be necessary to take the two-hour course.

MS. RYAN replied that those doing fundraisers fall under the temporary food service permitting system which requires that a two-hour course be completed.

Number 0811

CHAIR WILSON asked how someone in Wrangell would get this temporary food service permit.

MS. RYAN responded that the food inspector would come to the [permittees].

Number 0835

REPRESENTATIVE WOLF expressed concern about establishing a new standard for food handlers. He asked if this legislation would apply to slaughterhouses, canneries, or processors like smoke houses, and sausage makers.

MS. RYAN said that food processors do not fall under this paradigm because [these businesses] are already required to meet very stringent standards through the Hazard Analysis Critical Control Point program [HACCP] which is much more complex than what is being suggested here. Ms. Ryan explained that the program DEC is recommending is much simpler than the HACCP program. She commented that meat processors are regulated by the U.S. Department of Agriculture.

REPRESENTATIVE WOLF asked if high school students who work part time in McDonalds will be required to be tested.

MS. RYAN responded that is correct. She told the members that when she was in high school in Oregon she had to go to the Division of Motor Vehicles to obtain her food handler's

card. Ms. Ryan pointed out that these people are serving the public food 365 days per year so it seems realistic that these workers would know how to serve food safely.

Number 0954

REPRESENTATIVE SEATON asked how different the program she is proposing is from HACCP. He explained that he has been through HACCP and would not want to wish it on any one. Representative Seaton asked what the regulations are.

MS. RYAN replied that the DEC regulations will be much different from HACCP. She explained that the division borrowed the HACCP model when developing the new program. The division took the concept that written operating procedures for some fundamental safety issues like hand washing and employee health, are a good idea. She clarified that DEC is not going to require food operators to analyze their entire system and develop critical control sections where risks are controlled.

Number 1016

REPRESENTATIVE SEATON asked if the certification for the managerial position is close to HACCP.

MS. RYAN responded that [managerial position] certification requires a training course that is already offered in the state by multiple providers. It requires sitting through a course and taking a test at the end, she added. She acknowledged that it is more information than the food handlers are expected to learn.

REPRESENTATIVE SEATON asked Ms. Ryan to provide the committee with a written specification on hand washing.

MS. RYAN responded that it would be something like "if you were handling money, you must wash your hands before you handle food." She commented that a lot of the food chains have already implemented many of these requirements and have standard operating procedures that employees can refer to. There are simple things included like "wear gloves if you are handling food", she said. Some standards require that employees wash their hands every hour. Ms. Ryan explained that there will be a vetting process as the regulations are drafted, where the division will conduct workshops in various communities to discuss proposals with

the regulated industry. Active Managerial Control is the proposal DEC believes is the best model to use, she said, but she emphasized that there will be variations as the regulation drafting process continues.

REPRESENTATIVE SEATON asked if he understands Ms. Ryan's response to mean that hand washing regulations would not be something like an individual is required to hold their hands under warm water for 35 seconds and use a certain kind of soap. Will those details be determined by the managerial staff.

MS. RYAN replied that there could be that level of detail in the operating procedures; however, DEC will be providing blank forms for [businesses].

Number 1199

REPRESENTATIVE COGHILL said that he is troubled that a civic event with the Moose Club, for example, would be "targeted." He added that he is involved with many church potlucks and is not very interested in DEC coming into the church to tell the members that they cannot handle food. Representative Coghill asked if Ms. Ryan could provide some comfort that this is not the road DEC is going down.

Number 1252

MS. RYAN emphasized that DEC is not increasing their oversight. A church event is an exempt activity, she said. Ms. Ryan explained that temporary service permits are for larger events where 200 or more people will be served, for instance at the [state] fair. She reiterated that if DEC is not presently [inspecting and regulating an event], it will not be [inspecting and regulating] it under this new system.

REPRESENTATIVE SEATON asked what kind of a tracking system DEC will be using to assure that the individual who is taking the test is actually the person he/she says he/she is.

MS. RYAN explained that DEC is proposing purchasing an on-line database from another state that already has this program in place. A card would be printed out at the end of the 5-minute test that the [food service workers] take, she said. When DEC does inspections there would be a check

to see that workers have been certified. There will also be a list generated by the database saying who has taken the test and from what facilities, she added.

REPRESENTATIVE SEATON asked if there are any checks to assure that the individual taking the test is who he/she says he/she is or whether this test is given on the honor system with the expectation that the managerial staff will verify [with the employee that he/she took the test].

MS. RYAN responded that there is a lot of trust involved in this program. The primary goal is that food handlers get educated and the test is the mechanism to see that the book or on-line information was read, she added. It is essential to food safety to know about the importance of hand washing, cross contamination, cooling [food] quickly, and heating [food] quickly. She emphasized that the [test] will not be that difficult. Managers will be held accountable to ensure that their workers have that understanding, Ms. Ryan said.

REPRESENTATIVE COGHILL asked if facilities [that will fall under this program] have expressed a need for this.

MS. RYAN replied that the Division of Environmental Health did do an on-line survey and mailed the survey to all the permit holders and asked what would be necessary to provide a safe food handling system. She said that of the 321 that replied, 89 percent stated that having a mandatory food manager certification would be necessary, and 82 percent stated that a food handler training would also be necessary. Ms. Ryan told the members that there is also an advisory board who have been involved in the process and who have been advising the division throughout the process.

Number 1503

REPRESENTATIVE COGHILL commented that the larger food service businesses are already involved in this process; however, what he sees will happen is that this regulation will land on the "mom and pop" businesses. He said he believes this will be difficult for businesses that are already struggling because they are already jumping through bureaucratic hoops. Representative Coghill asked what Ms. Ryan envisions as the fine for a business who does not have a [certified food service] manager.

MS. RYAN responded that the division's option in dealing with recalcitrant businesses is to close the facility. It is not the intent of this legislation to impact people's livelihood, but that may be the division's only recourse. The fining capacity in the bill is \$1,000. She said it is important to note that it rarely gets that high. If a business did not have a certified food service manager, that would not qualify for a serious violation; however, if [inspectors] went back there every year for five years and there still was not a certified food service manager, then that might qualify for a high fine, she said. Fines are one more tool to encourage compliance, Ms. Ryan added.

REPRESENTATIVE COGHILL asked if he was correct in surmising that [actions against businesses] vary in a spectrum from a friendly reminder to closing the business. He asked how the division would deal with a business that has certified staff, but is not operating appropriately.

MS. RYAN told the members that the fine mechanisms will be clearly written in regulation so that businesses know what would merit a fine and what would not. She said it is important to note that the industry will have an opportunity to state what it believes is appropriate. The division has been thinking that continued disregard of the requirements would merit a fine of \$100. Ms. Ryan emphasized that the division's goal is to make sure businesses do its job correctly, and does not [seek to] close businesses down unless there is a serious threat that the public could be harmed.

Number 1695

CHAIR WILSON posed a question concerning a community event that occurs every June during the salmon derby in Wrangell. Teenagers competing for the role of queen by competing to raise the most funds. So every day for a month there are booths with food for sale, she explained. Each of these booths [could] raise \$30,000 each. Chair Wilson asked how the certification process would work in this case.

MS. RYAN emphasized that if the division was not inspecting and requiring temporary food service permits before, then there will not be any now. The intent of this bill is not to increase oversight of events, she said. It sounds like this event has probably been an exempt activity. Ms. Ryan explained that when the division is aware of an event that

will generate a lot of food booths, an inspector has gone to that community the week before and done the two-hour course with participants so there is a fundamental understanding [of food safety standards]. She added that the determination [of exemption] is based on how many people will be eating the product. Ms. Ryan offered to get back to Chair Wilson on the event she mentioned.

REPRESENTATIVE SEATON posed a hypothetical question on fines. He said, for example, if an inspector found a business was unsanitary, and that it also had food handlers that were not [certified], would the fine be doubled.

MS. RYAN responded that the division does not have the regulation paradigm fine-tuned on that issue yet. She emphasized that as the division reviews the regulation process those details will be discussed. She said she sees only one fine [during one inspection].

REPRESENTATIVE SEATON referred to Ms. Ryan's comments about the number of people served determining the necessity for certified staff. Would bed and breakfast establishments that serve people over a longer period of time, but fewer in number, be regulated.

MS. RYAN responded that bed and breakfasts are currently exempt from food safety and sanitation regulations.

REPRESENTATIVE WOLF stated that he does not believe the numbers are correct with respect to the testimony [Testimony HB 378, 2/3/2004, Kristin Ryan, Director, Division of Environmental Health, page 1] provided to the committee on the restaurant in Kenai which reportedly was involved in an E. Coli outbreak.

Number 1992

MS. RYAN responded that she will provide Representative Wolf with the epidemiology report on that case.

REPRESENTATIVE WOLF said he sees this program as a way of growing government programs. Representative Wolf cited incidences in the past where there were efforts to prevent children from getting alcohol and cigarettes through the issuing of a card, which did not work. In the case of the state regulating contractors, the only result he said he ever saw was a state certified trainer making money. He

summarized his comments by saying that with all of these programs there are still kids getting alcohol and cigarettes, there are still "fly-by-night" contractors, and when this is passed, there will still be people getting sick.

MS. RYAN responded that DEC has 18 inspectors, and that [number] is not sufficient to regulate 5,000 facilities by relying on inspections.

CHAIR WILSON asked if more inspectors would be hired.

MS. RYAN answered that there will be 2 new positions to manage training and certification.

CHAIR WILSON asked the members to look at page 3, lines 23 and 24, which read as follows:

**The use of this section for a violation does not prevent imposition of a penalty under as 45.50.561 for the same violation.**

CHAIR WILSON said she believes if the bill is adopted with this language it appears the division will be allowed [to fine] for more than one penalty.

Number 2079

ELISE HSIEH, Assistant Attorney General, Environmental Section, Department of Law, testified on HB 378 and answered questions from the members. She responded that she did not draft the phrase Chair Wilson is referring to; however, she did review it with Assistant Attorney General, Ed Sniffen, who does enforcement of the Unfair Trade Practices Act violations. Ms. Hsieh admitted that the wording could be better. She explained that what this [language] is actually saying is that if a [business] violates a provision of [AS] 17.20, for example, in a regulation or an order it could have two aspects. There could be a health and safety aspect. For example, lingering food which represents certain things that are unsafe or unfit for consumers to eat. At the same time, she said, that mislabeling could also be a violation of the Unfair Trade Practices Act as being deceptive. The assistant attorney general in charge of [Unfair Trade Practices Act] could enforce that aspect, Ms. Hsieh

commented. She emphasized that this [language] is really not about civil fines.

CHAIR WILSON clarified that her question is really about how many times a [business] could be penalized for [violations].

MS. HSIEH said that she recalls someone asking if there were several violations [in an inspection] would one fine be implemented, or several [fines] that would be stacked on top [of each other]. She told the members that this point would have to be addressed in the regulations. Ms. Hsieh referred that question to Kristin Ryan. She pointed to page 3, lines 23 and 23 which read:

**The use of this section for a violation does not prevent imposition of a penalty under AS 45.50.471 - 45.50.561 for the same violation.**

MS. HSIEH reiterated that this language only applies to the Unfair Trade Practices Act. A [business] could be fined [separately] under that act if the violation fell within that context, she added.

Number 2166

MS. RYAN explained that the reason this reference is included in the bill is due to situations where the DEC has been asked to hold a business accountable for a label that is misleading. When a label is misleading in a harmful way [that jeopardizes] health safety, then the department agreed that it is appropriate [to handle these violations], she said. However, when a label is misleading because it leads someone to believe something was made in Alaska, and it was not, DEC does not believe it should be involved in enforcing labeling issues. Ms. Ryan told the members that this [language] was added with the intent that the fair trade and commerce attorney in the Department of Law could take on those cases.

REPRESENTATIVE SEATON posed a hypothetical question regarding an inspection which revealed an unsanitary condition or a condition where people who are not properly licensed are handling food. During this inspection it was also discovered that farmed fish were being labeled as Alaska wild fish. He asked if he is correct in assuming

that both violations could be prosecuted [with this language in the bill].

MS. RYAN replied that is correct.

CHAIR WILSON noted that many of the questions the members are asking cannot be answered until the regulations are drawn up. She asked Ms. Ryan if the process used in developing the regulations will include an opportunity for interested parties to comment on them.

MS. RYAN told the members that if the bill passes, the division plans to hold workshops beginning in May or whenever the bill becomes law. The division would go to larger communities, discuss what is being proposed, and get feedback from people. She added that regulation drafting would be based on the [results] of those workshops.

CHAIR WILSON asked how the division would address the problems that face smaller communities. She pointed out that there are many more small communities [that should be considered].

Number 2265

MS. RYAN explained that through the regulation drafting process a packet is sent out to every permit holder, so it will be possible for everyone to comment on the regulations and give their input.

CHAIR WILSON pointed out that interested [parties] could also call into the public meetings.

REPRESENTATIVE COGHILL explained that the reason he struggles with this bill is due to the fact that it is increasing fines and asking DEC to look over someone's shoulder. It is also true that public health is something this committee is very concerned about, he said. There is a question of balance, he said. Representative Coghill added that Ms. Ryan did a good job of answering questions from the committee, but he really wants to have some comfort that DEC is not going to be at his church social with fines for violations. This bill will create another layer of bureaucracy that eating establishments will have to deal with; however, inspections are something [businesses] are familiar with. Since there are not many inspections, he said, this is probably a good compromise

solution. He added that he is still struggling with the bill, but would like to see it come to a vote before he leaves the meeting.

Number 2339

ROBIN NORTHSEYER, Owner, Northern Hospitality Training, testified in support of HB 378. She told the members that she comes from the restaurant industry both as a food handler and a manager for the last 30 years. Ms. Northseyer explained that training is a big issue when talking about keeping the public safe from food borne illness. She said it is so easy to make people sick through food borne illness that it is positively scary.

**TAPE 04-9, SIDE B**

Number 2341

MS. NORTHSEYER told the members that she has trained over 300 food handlers and she is always amazed at what little knowledge the [food handlers] have about very basic food safety procedures such as, how and when to wash hands and how easy it is to transmit disease from hands to food. Ms. Northseyer pointed out that food safety is very important in a state like Alaska that relies heavily on tourism. In her seven years of work in the tourism industry she became aware of the age group of the tourists who come to Alaska. Many of them are elderly and are susceptible to food poisoning. Ms. Northseyer summarized her comments by saying that from the trainers' and managers' standpoint, training is key to keeping food safe.

CHAIR WILSON commented that her main concern is that training is as accessible as possible. She urged the division to make it available on-line because it will be difficult for small communities [to access the training]. She urged that the wording on page [3, line 23 and 24] be worked on between committees.

REPRESENTATIVE SEATON asked Ms. Ryan if the training material will be available as mail out materials as well as on the Internet.

MS. RYAN replied that the division is still working out the details, but anticipates being able to provide the testing materials in writing for those that will need it. It would

require the manager of the establishment to proctor the exam, she said.

Number 2261

REPRESENTATIVE SEATON moved to report HB 378 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 378 was reported from the House Health, Education and Social Services Standing Committee.

The committee took an at-ease from 3:58 p.m. to 4:00 p.m.

HB 337-ANATOMICAL GIFTS REGISTRY

Number 2154

CHAIR WILSON announced that the final order of business would be CS FOR HOUSE BILL NO. 337(STA), "An Act relating to anatomical donor registries, to an anatomical gift awareness fund, to an anatomical gift awareness program, to motor vehicle licenses and registrations, and to state identification cards." Chair Wilson reminded the members that the committee had a hearing on this bill last week and there was agreement that there needed [to be some changes in the language]. The sponsor of the bill has drafted an amendment to address the concerns of the committee, she said. Chair Wilson asked Mr. Hilyard to present Amendment 1.

Number 2110

HEATH HILYARD, Staff to Representative Lesil McGuire, Alaska State Legislature, presented an amendment to CSHB 337(STA) for Representative McGuire, sponsor, and answered questions from the members. He told the committee he believes [Amendment 1] will clarify [and correct] any questions the members had during the last meeting.

CHAIR WILSON told Mr. Hilyard that she would like the three portions of Amendment 1 to be handled as part A, B, and C.

MR. HILYARD began discussion of Amendment 1, which read [original punctuation provided]:

TECHNICAL AMENDMENT  
(Page 3, Lines 30-31)

(b) The purposes of the fund [IS] are to promote gifts under AS 13.50.010 - 13.50.090 and to administer the donation program established under AS 13.50.150.

CONCEPTUAL AMENDMENT

(Page 4, Lines 12-14)

(4) "motor vehicle document" means a motor vehicle registration, a driver's license, an instruction permit, or state identification, or a renewal of the registration, license, or permit;

CONCEPTUAL AMENDMENT

(Page 4, Lines 15-17)

(5) "procurement organization" [MEANS A PERSON LICENSED, ACCREDITED, OR APPROVED UNDER THE LAWS OF A STATE FOR THE PROCUREMENT, DISTRIBUTION, OR STORAGE OF BODY PARTS] means an organization that has been designated by the United States Department of Health and Human Services to coordinate activities for the procurement of body parts, for any portion of this state;

MR. HILYARD pointed out that [part A] which is a technical amendment is intended to correct a grammatical error on page 3, lines 30 and 31. He said Terry Bannister, Legislative Legal and Research Services, pointed out the necessity for the change. The wording is changed from the "purpose" of the fund "is" to the "purposes" of the fund "are", Mr. Hilyard said.

CHAIR WILSON said in response to Representative Seaton's question as to the handling of the amendment, that it is her intention to handle these changes as one amendment unless the members have a problem with a portion of it.

Number 2068

MR. HILYARD told the members that the next change [part B] is a conceptual [change] because it may need to be rephrased once the bill goes to Legislative Legal and Research Services for a revision. This change refers to page 4, lines 12 through 14, where motor vehicle document [adds] "or state identification." He said that language had been accidentally omitted and Terry Bannister pointed that out and suggested it be included to ensure the bill included all forms of motor vehicle documents.

Number 2047

MR. HILYARD commented that [part C] is also a conceptual amendment which goes to the heart of the questions members discussed at the last meeting. On page 4, lines 15 through 17 which reads as follows:

(5) "procurement organization" means a person licensed, accredited, or approved under the laws of a state for the procurement, distribution, or storage of body parts;

MR. HILYARD explained that [part C] deletes the language currently in CSHB 337(STA), Version U, and replaces it and returns it to the original language that was in Version I. He added that Version I was the first version that was read across the House. What the bill will say is that [procurement organization] "means an organization that has been designated by the United States Department of Health and Human Services to coordinate activities for the procurement of body parts, for any portion of this state." He told the members that this wording has been cleared through Legislative Legal and Research Services, LifeCenter Northwest, and the [Department of Administration], Division of Motor Vehicles.

Number 2012

REPRESENTATIVE SEATON moved Amendment 1. There being no objection, Amendment 1 was adopted.

Number 1985

RAY VIDIC testified in support of HB 337. He told the committee that he has a friend who has been on dialysis for ten years. This bill is important because anytime there is an increase in donations, there is a reduction of suffering, and whoever receives an organ has their quality of life improved, he said. There are many people in the state of Alaska and the nation who are suffering because they are in need of an organ.

MR. VIDIC gave a glimpse of his friend John's life. He has been on dialysis for ten years, has had last rites pronounced on him twice. He receives dialysis at home three times per week because he chooses to live in Juneau

with his family, rather than [moving] somewhere where it can be done for free. Since the dialysis is done Monday, Wednesday, and Friday, there is a longer period of time between Friday and Monday and during that time he gains 20 pounds, he explained. He has a special insert in his arm for drawing the blood in and out. That insert has had to be moved twice, he said.

Number 1940

MR. VIDIC told of two months of John's life. He was up in Anchorage and had to have seven-eighths of his thyroid removed because of a condition that results from being on dialysis. He was also bleeding rectally so he also had to have a colonoscopy. Because of his weakened state the doctor punctured his colon and had to have an emergency surgery where he had to have an [incision] from his breastplate down past his navel. On his way home in the Anchorage airport his stitches burst and had to return to the hospital. His son, who is 14 years old, had to handle the 911 call.

MR. VIDIC told the members that this guy is a fighter. In ten years he hasn't complained. His life is good and he has his son, something to live for, Mr. Vidic said. He said that the committee's work will decrease the suffering of so many people like him.

MR. VIDIC told the members that in his conversation with his friend, he found that while John has been on a list for 10 years; he has no idea who manages the list or where he is on the list. He is too busy trying to stay alive. Mr. Vidic summarized his comments by saying that if one life is saved because of this legislation, then the members have done a wonderful thing.

Number 1846

REPRESENTATIVE WOLF commented that Mr. Vidic's testimony hits home to him because his wife's cousin needs a liver transplant. He added that she has been on a list for over 12 years. This is a good bill, he said.

CHAIR WILSON encouraged [the members and public] to have their blood drawn and to register to be a donor.

Number 1799

REPRESENTATIVE GATTO asked if there are age or disease limitations on being a donor.

Number 1752

MR. VIDIC replied that he understands the limitations are set by the organ procurement providers. Hospitals will do a battery of tests both on the individual's physical and psychological health to see if the donation would be acceptable.

Number 1752

CHAIR WILSON announced for the record that Representative Cissna is on-line.

Number 1742

REPRESENTATIVE CISSNA commented that her late husband, Stan, had the kidney of a nine year old girl and it was the healthiest part of his body. It gave him nine years of life that was very rich, she said. She asked for clarification on the two ways in which a person gets on the [organ donor] registry. One is getting a blood test and signing up, and the other is to register through the DMV. She asked if one is more binding than the other.

Number 1677

CHAIR WILSON explained that a person can get a blood test and when the registry is looking for a match, then that individual would be contacted. This [procedure] is with respect to live donation of a kidney, for instance. Chair Wilson clarified that this bill is really dealing with the situation where there has been a death [through an accident] and the troopers could identify that the [deceased] person is a donor because of the notation on the person's driver's license.

REPRESENTATIVE CISSNA asked if the notation on the driver's license is as binding as the donor who has gone through the blood test and has gone to the registry.

Number 1609

MR. HILYARD responded that in conversations with LifeCenter Northwest and DMV he found that the standard is that if there are two next of kin that will swear an affidavit that there had been a change in the individual's willingness to be an organ donor, then that would be grounds to contest the organ donation. Mr. Hilyard said he was told by LifeCenter Northwest that that situation does not occur that frequently. Many times once the organ procurement organization, such as LifeCenter Northwest, has had the ability to counsel with the family that frequently the organ donation intent is upheld and the organs are harvested. Mr. Hilyard pointed out that the information from the DMV is just being listed in the registry. The registry does not list their physical qualifications or any medical history.

Number 1555

CHAIR WILSON pointed out that it is important to know as soon as possible if there will be an organ donation because there is a difference in how the body is taken care of.

Number 1542

REPRESENTATIVE SEATON moved to report CSHB 337(HES) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 337(HES) was reported from House Health, Education and Social Services Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at 4:36 p.m.