

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 11, 2004

3:20 p.m.

**DRAFT**

**MEMBERS PRESENT**

Representative Tom Anderson, Chair  
Representative Carl Gatto, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Harry Crawford

**MEMBERS ABSENT**

Representative Norman Rokeberg  
Representative David Guttenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 403

"An Act relating to the Alaska Insurance Guaranty Association; relating to joint insurance arrangements and assessments to the association; relating to the powers of the Alaska Industrial Development and Export Authority concerning the association; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 386

"An Act exempting contracts of the Alaska Natural Gas Development Authority from the State Procurement Code; and providing for an effective date."

- MOVED HB 386 OUT OF COMMITTEE

HOUSE BILL NO. 213

"An Act relating to a provisional driver's license and to issuance of a driver's license; and providing for an effective date."

- MOVED CSHB 213(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 80

"An Act prohibiting sales of certain soft drinks in public schools."

- HEARD AND HELD

HOUSE BILL NO. 450

"An Act providing for a special deposit for workers' compensation insurers; relating to the board of governors of the Alaska Insurance Guaranty Association; relating to covered workers' compensation claims paid by the Alaska Insurance Guaranty Association; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to restructuring the Alaska workers' compensation system; eliminating the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development and assigning certain Alaska Workers' Compensation Board functions to the division and the Department of Labor and Workforce Development; establishing a Workers' Compensation Appeals Commission; assigning certain functions of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals Commission; relating to agreements that discharge workers' compensation liability; providing for hearing officers in workers' compensation proceedings; relating to workers' compensation awards; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to assigned risk pools and insurers; and providing for an effective date."

- HEARD AND HELD

#### **PREVIOUS ACTION**

BILL: HB 403

SHORT TITLE: ALASKA INSURANCE GUARANTY ASSOCIATION

REPRESENTATIVE(s): RLS BY REQUEST OF THE GOVERNOR

01/28/04 (H) READ THE FIRST TIME - REFERRALS  
01/28/04 (H) L&C, JUD, FIN

02/09/04 (H) L&C AT 3:15 PM CAPITOL 17  
02/09/04 (H) Heard & Held  
02/09/04 (H) MINUTE(L&C)  
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 386

SHORT TITLE: NATURAL GAS DEVELOPMENT AUTH. CONTRACT  
REPRESENTATIVE(s): CROFT

01/20/04 (H) READ THE FIRST TIME - REFERRALS  
01/20/04 (H) L&C, O&G, RES  
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 213

SHORT TITLE: PROVISIONAL DRIVER'S LICENSE  
REPRESENTATIVE(s): WEYHRAUCH

03/26/03 (H) READ THE FIRST TIME - REFERRALS  
03/26/03 (H) TRA, L&C  
04/01/03 (H) TRA AT 1:30 PM CAPITOL 17  
04/01/03 (H) Heard & Held  
04/01/03 (H) MINUTE(TRA)  
04/03/03 (H) TRA AT 1:30 PM CAPITOL 17  
04/03/03 (H) Heard & Held  
04/03/03 (H) MINUTE(TRA)  
04/15/03 (H) TRA AT 1:30 PM CAPITOL 17  
04/15/03 (H) Heard & Held/Subcommittee assigned  
04/15/03 (H) MINUTE(TRA)  
01/22/04 (H) TRA AT 1:30 PM CAPITOL 17  
01/22/04 (H) -- Meeting Postponed to 1/27/04 --  
01/27/04 (H) TRA AT 1:30 PM CAPITOL 17  
01/27/04 (H) Heard & Held  
01/27/04 (H) MINUTE(TRA)  
02/03/04 (H) TRA AT 1:30 PM CAPITOL 17  
02/03/04 (H) Moved CSHB 213(TRA) Out of Committee  
02/03/04 (H) MINUTE(TRA)  
02/09/04 (H) TRA RPT CS(TRA) 6NR 1AM  
02/09/04 (H) NR: KAPSNER, KOOKESH, MASEK, OGG,  
02/09/04 (H) STEPOVICH, HOLM; AM: KOHRING  
02/09/04 (H) FIN REFERRAL ADDED AFTER L&C  
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 80

SHORT TITLE: PROHIBIT SOFT DRINKS IN SCHOOL  
REPRESENTATIVE(s): KAPSNER

02/05/03 (H) READ THE FIRST TIME - REFERRALS

02/05/03 (H) L&C, HES  
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 450

SHORT TITLE: INSURANCE & WORKERS' COMPENSATION SYSTEM

REPRESENTATIVE(S): RLS BY REQUEST OF THE GOVERNOR

02/09/04 (H) READ THE FIRST TIME - REFERRALS  
02/09/04 (H) L&C, FIN  
02/11/04 (H) L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

SARAH McNAIR-GROVE, Property Casualty Actuary  
Division of Insurance  
Department of Community and Economic Development  
Juneau, Alaska

POSITION STATEMENT: POSITION STATEMENT: Testified in support  
of HB 403.

MARK GNADT, Staff  
to Representative Eric Croft  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Introduced HB 386 on behalf of  
Representative Croft.

HAROLD HEINZE, Chief Executive Officer  
Alaska Natural Gas Development Authority,  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 386.

LINDA SYLVESTER, Staff  
to Representative Bruce Weyhrauch  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: As staff to Representative Weyhrauch,  
sponsor of HB 213, introduced the bill and talked about the CS:

KEVIN E. QUINLAN, Chief  
Safety Advocacy Division  
National Transportation Safety Board  
Washington, D.C.

POSITION STATEMENT: Testified in support of HB 213 and shared  
information about graduated driver licensing from a nation-wide  
perspective.

CINDY CASHEN, Executive Director  
MADD [Mothers Against Drunk Driving] Juneau Chapter  
POSITION STATEMENT: Testified in support of HB 213.

MARTHA MOORE, Coordinator of the Alaska Trauma Registry  
Department of Health and Social Services  
Juneau, Alaska  
POSITION STATEMENT: Testified as a representative of the  
Department of Health and Social Services in support of HB 213.

DUANE BANNOCK  
Division of Motor Vehicles  
Department of Administration  
Juneau, Alaska  
POSITION STATEMENT: Made himself available to answer any  
questions regarding HB 213. He stated that the division is  
supportive of the bill.

STEVE CLEARY  
Alaska Public Interest Research Group  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HB 80.

DR. JULIAN NAYLOR, Alaskan Diabetes Consultant  
Alaska Native Medical Hospital  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HB 80.

SHELLEY McLAUGHLIN-TRUE  
Dental Hygienist  
Haines, Alaska  
POSITION STATEMENT: Testified in support of HB 80.

PAUL LISANKIE, Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development  
Juneau, Alaska  
POSITION STATEMENT: Testified in support of HB 450\*.

LINDA HALL, Director, Division of Insurance, Department of Labor  
and Workforce Development, asked if she should hold her  
comments, in the interests of time, until the beginning of the  
next hearing on the bill,

**ACTION NARRATIVE**

**TAPE 04-11, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Anderson, Gatto, Lynn, and Crawford were present at the call to order. Representative Dahlstrom arrived as the meeting was in progress.

^#hb403

HB 403-ALASKA INSURANCE GUARANTY ASSOCIATION

**DRAFT**

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 403, "An Act relating to the Alaska Insurance Guaranty Association; relating to joint insurance arrangements and assessments to the association; relating to the powers of the Alaska Industrial Development and Export Authority concerning the association; and providing for an effective date."

CHAIR ANDERSON stated that the committee had already heard HB 403 and were now looking at a committee substitute.

Number 0135

REPRESENTATIVE CARL GATTO moved to adopt the CSHB 403 Version D.

CHAIR ANDERSON objected for discussion purposes.

SARAH McNAIR-GROVE, Property Casualty Actuary, Division of Insurance, Department of Community and Economic Development, stated she had not actually reviewed the CS, but she thought she knew its intent.

CHAIR ANDERSON asked what sections had been removed from the bill because of the recommendations from the Association of School Boards and the Joint Insurance Associations. He said he recalled that the self-insured groups had requested that certain sections of HB 403 be deleted.

MS. McNAIR-GROVE said she believed that Sections 1,3,5,6,and 8 had been deleted. She stated that if this bill passes with this CS the self-insured groups, two joint insurance associations and twenty-four or twenty-five self-insured employers would not be subject to the Guaranty Association assessment.

REPRESENTATIVE CRAWFORD stated he understood that, if the self insured employers and the joint insurance associations were not included in the bill, there would not be enough money collected to solve the problem. He asked, "What's changed?"

MS.McNAIR-GROVE stated that the division was willing to take those sections out since those groups would not be covered by the Guaranty Association. She said the funds [from that portion of the assessment] were not significant and this action would not significantly impact the bill.

Number 0385

CHAIR ANDERSON stated that due to the level of committee attendance, he would hold HB 403, with the CS, Version D, before

the committee, and the objection was maintained for further discussion.

**DRAFT**

^#hb386

HB 386-NATURAL GAS DEVELOPMENT AUTH. CONTRACT

**DRAFT**

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 386, "An Act exempting contracts of the Alaska Natural Gas Development Authority from the State Procurement Code; and providing for an effective date."

Number 0460

MARK GNADT, Staff to Representative Eric Croft, Alaska State Legislature, introduced HB 386. He stated:

We feel this is a necessary bill because of the dynamics of the worldwide natural gas industry. There already have been a few contracts that have come and gone where the Alaska Natural Gas Development Authority has been trying to meet the demands of a rapidly moving industry. The requirements to the procurement code inhibit them in certain ways that we feel are unnecessary. Certain other state organizations or state entities are exempt from the procurement code already. Some of those, including the Railroad Corporation, the Alaska Aerospace

Development Corporation, and a few others, for similar purposes of being able to move within contract negotiations without some of the obstacles that the state's procurement code puts forward to them. Those obstacles are great for other things in the state and they are very necessary, but not necessarily for organizations dealing in the natural gas industry and other things.

Number 0550

REPRESENTATIVE GATTO asked Mr. Gnadt to clarify what the state procurement code means to him.

MR. GNADT replied, "To me, it's a set of regulations that guide state entities in their forming of contracts with outside sources and things along that line."

Number 0607

HAROLD HEINZE, Chief Executive Officer, Alaska Natural Gas Development Authority, testified:

The authority [Alaska Natural Gas Development Authority] is the product number one, of the initiative process, and, as often happens with initiatives, sometimes little pieces of language and subtleties of law get left out. Frankly, that's why we're here today. I'm going to make to you what I [would] probably call the "me too" argument, which is that every other public corporation of the State of Alaska, and most of its other agencies, have been

opted out, as part of their creation, of the procurement code.

Number 0760

In answer to Representative Gatto's question, the state procurement code basically provides for a centralized contracting authority, within the administration. It is broadly applied to everybody in the state. But then, of course, immediately both the legislature and the courts are opted out and they have their own set of procurement procedures. Beyond that point, in the department of administration, is a group and a person, who is responsible for all the procurement of the state. In the most simple form, I would describe it as a series of processes, procedures, timelines, requirements, that basically assure that no undue political influence will result in the awarding of contracts to certain people. It keeps the playing field very fair and level.

It also, as part of doing that, sets up a whole bunch of situations which are not necessarily very useful to major contractors or major entities that have their own boards or other leadership, separate from the executive branch of government. In our case, we, as a public corporation, look to models such as Alaska Housing Finance and the Alaska Railroad, as organizations that have evolved and have faced some of the major decisions we would face out in the future.

Currently, our contracting work is for very small amounts. Under the procurement code, in particular the regulations of the Department of Revenue where we are, contracts for under \$100,000 have a great deal of flexibility in terms of how you can work through the system. So, we've been able to do it pretty successfully, with the cooperation of the staff within the department.

For major contracts, that would involve maybe the purchase of sale of gas, hundreds of millions of dollars, if not billions of dollars, of construction effort, we just don't see the process as very workable in terms of either timeline, or, frankly, all the factors for consideration.

Number 0833

We would propose that our board would adopt its own procurement code so that they would maintain the control they should have over any of the contracts that would be awarded into the future.

By way of example, we look in the construction work, the project work, we would be mainly interested in assuring that very high attainment [occur] in terms of Alaska hire, and use of Alaska contractors. Portions of the procurement code are not necessarily helpful in that regard and we would probably, in writing our own procurement code, do a little better job, and [have] a little more flexibility in that regard.

There are a large number of agencies that are not covered by the code, for reasons I've outlined. In addition, there's over 43 different types of contracts the state makes, that are delineated in the law itself. If you look through those, you'll find some of those are for major design build type considerations and other things like that.

Number 0873

CHAIR ANDERSON requested clarification on models in state government that are exempt from the procurement code.

MR. HEINZE referred the committee to a handout that listed the following agencies:

State agencies such as: Alaska Railroad Corporation, Alaska Aerospace Development Corporation, Alaska Housing Finance Corporation, Alaska State Pension Investment Board, Alaska Marine Highway System & new vessels, Alaska Seafood Marketing Institute, University of Alaska.

All have their own specific, individualized procurement approaches that are tailored to meet their needs, rather than falling under this more general procurement code. Very frankly, if the enabling statute that set up the authority [Alaska Natural Gas and Development Authority - ANGDA] has maybe gone through more of a legislative process, I think that this provision would have probably, actually, been included in the language originally. This is one of a

whole series, that are smaller, technical amendments that as the authority comes into being, we're going to find out that there are some things - that we didn't build on the best models that are out there.

Number 0957

REPRESENTATIVE GATTO asked if there was a common thread, within guidelines that have been established, in the procurement codes of the list of organizations that Mr. Heinz could use to formulate a code. He then asked, "Or is it wide open, that every one of these is pretty much independent of every other one, and there's no commonality at all."

MR. HEINZE replied:

There certainly is a thread of all these organizations, in that they basically have boards that are responsible for, and have the authorities over, what the organization does. In our case, Alaska Housing Finance Corporation is the one we would propose, basically, to pick up their model. If there are changes needed to it, we would make it from that. We do not intend to sit down, and from scratch, develop a whole new procurement code. We will take one of them and tailor it to fit. Right now, my answer would be Alaska Housing Finance [Corporation]. They are of interest to us because they deal with very large dollar contracts and they have a very small staff. That's the approach we hope to go down.

REPRESENTATIVE GATTO asked if Mr. Heinze would be involved in the development of a procurement code for ANGDA.

MR. Heinze responded:

I certainly would be involved in this and draw upon my specific project management experience from 27 years in the corporate world, the oil industry. Nobody wants to go about contracting without a process. You have to have a process to go through. In this case, we would want to have a process that was much heavily weighted towards the outcome being one of making sure that the state, and the authority, received full value for its contract in terms of performance, as well as for the amount of dollars we spend. At times the procurement code doesn't have some of those flexibilities. We feel you can write and design a process that will be very effective in that regard.

REPRESENTATIVE GATTO stated that, "The bill, as written, simply exempts you from the state procurement code without authorizing entrance into, or creating of, any additional codes. Was that the intent?"

Number 1110

MR. HEINZE explained that the enabling statute of the authority [ANGDA] invests in the board of directors very broad authorities to conduct business and, by being exempt, the board becomes responsible to assure that a procurement procedure is followed. He further said:

In this case, until such a time as we have a chance at the board level to adopt it, I would just continue to operate under the procurement code, and move as quickly as we could, to the Alaska Housing Finance Corporation model.

Number 1180

MR. HERZOG, Attorney at Law, Department of Law, stated:

Al Heinze did a good job of explaining it [HB 386], the way I understand the bill and I attend all the authority's [ANGDA] meetings. We would proceed under the procurement code until such time as the authority [ANGDA] adopted and published to the public its own procurement code.

REPRESENTATIVE GATTO reiterated his concern "About letting somebody not have any codes that they have to run by, according to the bill...what an opportunity that would be. But indeed, if that's the goal and intent, I can live with that."

Number 1269

REPRESENTATIVE CRAWFORD moved to report HB 386, Version A, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 386 was reported out of the House Labor and Commerce Standing Committee.

**DRAFT**

^#hb213

HB 213-PROVISIONAL DRIVER'S LICENSE

**DRAFT**

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 213(TRA), "An Act relating to a provisional driver's license and to issuance of a driver's license; and providing for an effective date."

Number 1332

REPRESENTATIVE GATTO moved that the committee adopt the committee substitute, Version 23-LS0786\X, Luckhaupt, 1/29/04.

LINDA SYLVESTER, Staff to Representative Weyhrauch, sponsor of HB 213, introduced the bill and talked about the CS:

This bill deals with the process by which young drivers get their Alaska drivers license. Currently, the system is two-tiered. There's a permit that is required. You are eligible to get a permit when you are 14 years old. Alaska law requires that you hold the permit for six months before testing for your driver's license at age 16. If you are under 18, regardless of when you got your permit, you have to hold your permit for six months before you can test for your license.

We're adding another tier. We look at it as protections. They are very simple protections and what they do is basically restrict a young person from driving around in their car in the middle of the night with their friends. That's all it is: it's very simple. This period of time is only for six months.

The idea is that a young driver who is learning to drive is highly susceptible to distractions which are very dangerous and fatal. In the State of Alaska, if you are a young person, and you're going to die, you're going to die from one or two things. It toggles from year to year. You're either going to die from a car accident or you're going to die from suicide. We can't do much about suicide but this bill will likely save lives.

Other states, that have adopted graduated driver licensing systems [GDL] that are full-on protections, have seen dramatic reductions in accident rates and death, a standard [average of] 20 percent.

We're looking at protecting the kids who are driving and we're also looking to protect other Alaskans who are driving around on the roads who are being hit, and injured, and suffering property loss, loss of life, loss of time from work ... It's a good idea.

Number 1429

The changes that were made, this bill spent a lot of time in House Transportation Committee [House

Transportation Standing Committee]. We started off with the mother of all GDL bills. We had it at a year and thought that was very draconian. We dropped it down to six months. We've put exemptions; we want to make sure this is tailored to Alaska. We've got exemptions. If you're in your GDL period, your provisional license period, you can drive around with your siblings. This way, if you live out in the rural area, if you're out in the Matsu and your parents rely on the young driver to take the kids to school, that's allowed.

We've also got an exemption for working. If a kid is working, needs to be driving in the middle of the night, to work in a fish camp, you can get a work permit to work in the scope of your business, or driving to and from work.

One of the other neat functions about this bill is if you're in your provisional period and you're a careless driver, and you're speeding, and you've got a ticket, and you've been convicted of your ticket, then that's going to put you back and you're not going to advance. That's a neat idea for the police. It's the carrot that will keep the drivers safe on the road.

Number 1500

REPRESENTATIVE GATTO asked if the bill limited the number of siblings a young driver could have in the car.

MS. SYLVESTER read from the bill, page 2, line 20-22:

(1) for the first six months after receiving a provisional driver's license, operate a motor vehicle that is carrying any passengers except a passenger who is a parent, legal guardian, sibling, or a person at least 21 years of age;

REPRESENTATIVE GATTO asked if the driver had a 12-month-old brother in the car, and the driver had his or her buddies in the car, turned up the CD player, and cruised around, would this be legal.

MS SYLVESTER replied that:

Your buddies wouldn't be in the car - just your sibling. Only the sibling is authorized, or a parent, or guardian. We're targeting people: we're targeting the buddies. Statistics show that those buddies provide fatal distractions for these kids. They get six months of handling all the nuances of driving and then they've got some experience under their belt and can deal with what the buddies are doing.

Number 1606

REPRESENTATIVE CRAWFORD asked what "proof satisfactory", in the context of HB 213, meant.

MS. SYLVESTER replied:

What you're referring to is a certification before you get your provisional license a parent, guardian or employer is certifying that - while the kid had a

permit, they've got lots of time driving. We're saying 40 hours. When you bring your kid to motor vehicles [Division of Motor Vehicles] you're signing the statement that you're accepting legal liability for your child driving. On that statement you're just saying that they've got it [the 40 hours of driving experience]. We wanted to leave it open-ended for the Division of Motor Vehicles. It's a form; there's no enforcement of it. It is a very open-ended item that serves to heighten people's awareness of what standard is necessary.

REPRESENTATIVE CRAWFORD restated "So, what you're actually asking for is that I've driven that much times with my kids."

MS. SYLVESTER said:

Don't forget the nighttime driving and driving in inclement weather. A lot of people don't think those things through, so it's an educational tool. It's simple and innocuous, but highly effective, statistically speaking.

Number 1690

KEVIN E. QUINLAN, Chief, Safety Advocacy Division, National Transportation Safety Board, Washington D.C., spoke in support of HB 213:

You have two documents before you. One is testimony and I will read the testimony, I'm only going to highlight it. The other is our list of most-wanted

safety recommendations. These are the ones that really work. I'll get back to that in a minute.

The NTSB [National Transportation Safety Board] is an independent, federal accident investigation agency. You probably know us from Alaska Air [airlines] 261, from the Exxon Valdez, but we also do highway investigations, pipeline, so forth. We do highway on a selected basis and we make recommendations. We are not the typical federal agency. We are a very different federal agency. We investigate, we don't regulate. We don't tell you or the states, what to do. Rather, we ask you to do the right thing, based on our investigations, and it's really up to you to adapt the recommendations to fit your state. That said, the safety board is known for its scientific rigor and objectivity.

Number 1761

Let me hit a couple of highlights on the problem. Ninety percent of transportation fatalities every year are [happen on the] highway and 40 percent of teen deaths occur in traffic accidents. That's the number one cause of death for teenagers. In Alaska, teens constitute 7 percent of the driving population but they're 17 percent of drivers in fatal crashes and 26 percent of the fatalities in Alaska involve teen drivers. You can see that they are significantly over-represented. In terms of teen passengers, two-thirds of teen vehicle deaths occur in vehicles driven by other teens.

One of the things that's not in the [written] testimony is that the nation as a whole, and probably Alaska but I haven't checked your statistics on this, is experiencing an increase in the number of young drivers. It's called the baby boomlet and that increase is 25 percent. That means that you have more in that age group, so you have more drivers, more crashes, more fatalities. That's the way it would normally work.

Teen drivers also do about 20 percent of their driving at night but 50 percent of the fatalities are at night. There's another issue. What we've seen is that the systems broken. The system doesn't teach our young people to drive. It teaches them how to pass a test and the fix for that is to give them more experience in a supervised, safe setting. GDL is the answer; it's not new and it works in the other states.

Number 1850

You've heard some discussion of what a three-phase system is. Alaska has the learner's permit with the six-month mandatory holding period. Supervised training is very important. Most states select 50 hours. Crash and violation-free driving is very important. You can identify the high-risk drivers early and remediate.

The new phase is an intermediate phase. Six months is the minimum because most of the effect is achieved in

the first six months but it does continue up to a year. We recommend a year, but six months is fine. In that phase there are three restrictions that the safety board recommends.

Number 1876

One is a nighttime driving restriction and the reason is that the cues are different at night. Unfortunately, the people that have the best reflexes, that is, teenagers, have the worst driving record and the worst crash record. I know Alaska conditions are different: you could have nighttime driving at four o'clock p.m. That's fine. The real message is, we need to give them lots of nighttime driving experience, and lots of driving experience that's supervised.

We also recommended a passenger restriction of zero or one, to last at least six months, again, preferably a year. The reason we picked one [passenger] is for security, in some areas you need to consider security issues, unless they're supervised. Then they can have as many people as they want. You need an adult supervising driver.

The last one is a cell phone restriction. This is just for the provisional phase. Some states have banned hand-held cell phones. We've investigated crashes involving teen drivers where clearly, the distraction was the cell phone. I have to tell you, I was unconvinced when I looked at the first

investigations on this, but then I came to realize, with the data that we had, that the distraction for a teenager, in the learning phase, and the intermediate phase, is very analogous to that of having multiple teen passengers. Again, crash and violation-free driving ...

Number 1941

We have 39 states with a three-phase system. Thirty-six states, including Alaska, have some elements, and I mentioned that one, of graduated licensing system. Thirty-seven have nighttime restrictions and the newer one, that almost didn't exist three years ago, twenty-six states now have passenger restrictions ...

You have in the testimony a summary sheet of effectiveness in other states. I'd like to point out a couple to you really quickly: Michigan, 25 percent overall reduction in crash rates, that's normalized data, so that's good, hard data, and it's done by a highly-esteemed, scientific institution. The same thing in North Carolina, but look at the 57 percent reduction in fatal crashes. There is one thing that's not in there, on California: there's a recent report from California on the reduction of teen, alcohol-related, fatal, crashes from GDL, a totally unexpected consequence of enacting GDL. It's done by the Auto Club of Southern California [Automobile Club of Southern California].

I would also like to point out Pennsylvania because that was almost a unique situation in which the governor, a republican governor, a republican legislator, Ridge [Thomas Ridge], and Transportation Committee Chair, Rick Geist, worked together to pass it, and look at the results that they achieved: a 58 percent reduction in fatalities.

I did point out this document. On the very back of this, our most wanted list includes graduated drivers' licensing. It's right up there with measures to keep aircraft from exploding in mid-air and running into each other on the ground. We take this very seriously. It will actually save more lives.

Number 2042

Let me just wrap up by saying, I like to read state constitutions, and most states in the United States have the word "safety" in Article 1. Alaska doesn't, but it does say that you have the right to life and in Article 7, it talks about public health and public welfare. That's what we are really talking about here. We strongly support HB 213. We know this measure works; it's one of the most effective actions you can take to prevent teen deaths, and the deaths of others in teen crashes. The best part is, it's not just this year, it's every year. It passes all of the tests, and the one that's most important to me; it passes the common sense test because teen drivers just need experience driving. We cannot do what Germany does and require 270 hours of driver education.

That's not going to happen. But we can give them lots of driving experience. Finally, it's just the right thing to do.

REPRESENTATIVE GATTO asked if "teens" referred to anyone less than 20 years of age.

MR. QUINLAN replied, "That's how the data is cut. The states license at whatever the states want to: fourteen in some states, fifteen in some others, sixteen in some others and in New York, [interrupted]"

REPRESENTATIVE GATTO stated: "If we're talking about statistics that affect everybody, from a minute under 20 all the way down, there has to be some portion of this that has no effect. It only applies to six months of teenage-hood while the rest of it is wild."

MR. QUINLAN replied:

We recommend that this program - if you start at the very beginning, let's say it's 16. You have to hold the learner's permit for six months, you have to hold the other permit for at least six, we recommend a year. It's actually best to carry it through to 18 as New York does because then you get them over the hump of the inexperience, I hesitate to say it, the testosterone.

Number 2188

REPRESENTATIVE GATTO told of his experience with his two daughters and the two wrecked cars they produced in their first six months of driving.

MR. QUINLAN commented:

What you are trying to do is to push out the learning curve. You have a protected space in which they are learning how to drive, and they get the cues, and the experience that they need. You may have seen on 20/20, or one of those [television news programs], I think the correspondent was Noah Arsega (ph), and there were cameras in the car, and they [teen drivers] knew that there were cameras in the cars. They still blew a stop sign because there were three teen passengers, and they were all girls, as a matter of fact, in that particular [example], you may remember that. What we want to do is restrict teen passengers, at least, for the most critical period. We know that the first six months, or that intermediate phase, is the most critical. That said, we recommend a year.

Number 2230

REPRESENTATIVE LYNN noted that the weather in Alaska is severe at times, and cell phones are a safety feature for drivers. He also commented that if a car breaks down and the temperature is 20 degrees below zero, a drunk driver is observed, one needs to be able to call authorities.

MR. QUINLAN replied:

Every state that has that [cell phone restriction] has an emergency exemption, 911 or whatever. It only makes sense. If you're in an emergency, are you going to be holding both hands on the wheel and checking the whiteout as it comes to you? Or are you going to be on the phone, or are you going to stop and call. You're probably going to stop and call and that's the safest ... Of course you'd want to have a cell phone in the car, and of course you would want the teen driver to be able to call somebody to help them ... If it were added [cell phone restriction], there should certainly be an emergency exemption, of course.

Number 2340

CINDY CASHEN, Executive Director, MADD [Mothers Against Drunk Driving], Juneau Chapter, testified in support of HB 213:

This is the MADD Alaska Chapter's number one priority. We have worked very hard on finding a sponsor, and fortunately, found one in Representative Weyhrauch. He's been very aggressive and helpful on this. I'm here today to represent the MADD Alaska Chapters, and that would be, MADD Anchorage, MADD Fairbanks, MADD Juneau, and MADD Matsu. We have members all over Alaska, not just in those districts.

**TAPE 04-11, SIDE B**

Number 2340

... [This sentence is incomplete due to the tape switching sides] laws, providing for a graduated

drivers' license privileges to persons younger than 21. We feel that early driving experiences must be required in a lower risk environment through extended restriction of no alcohol use, primary belt enforcement, limitations on night-time driving, and teenage passengers. Appropriate restrictions should be lifted in stages, based on clean driving records.

Kevin and Linda have talked to you about this also; I'm going to make this even briefer. According to the Alaska Highway Safety Office, in the year 2000, in Alaska, there were over 3,800 crashes involving 16 to 20 year-old Alaskan teenagers. The next year, 2001, it went up to by over 400. In the year 2000, every two and one-half hours there was a teenager in Alaska being involved in a crash. In 1995 to the year 2000, that five-year period, there were 64 Matsu teen drivers in motor vehicle crashes on the highway, who were injured seriously enough to be hospitalized.

Number 2299

I looked up three places, through the Alaska Highway Safety Office, three Alaskan towns, villages, cities, to give you a representation how it's not just in urban areas, it's all over Alaska. In Kodiak, 34 percent of their crashes involve teen drivers; in Anchorage, it's 28 percent; in Barrow it's 26 percent. The evening crashes, that would be between midnight and 5 a.m.: in Kodiak, it's 22 percent of evening crashes involve teenage drivers; in Anchorage and in Barrow, they're both 25 percent. Pretty substantial

numbers and these numbers can be brought down if we have the GDL program. The studies prove it.

Number 2285

REPRESENTATIVE CRAWFORD made the comment that he had personal experience with his children and he hoped that this bill would help them "make it through these harrowing years."

Number 2257

MARTHA MOORE, Coordinator of the Alaska Trauma Registry, representing the Department of Health and Social Services, testified:

The department supports House Bill 213, provisional driver's license legislation. My job is to maintain and work with an injury surveillance system. I look at injury statistics in Alaska, as well as do research on them.

It's common knowledge that teens are at greatest risk for traffic crashes and have this highest traffic mortality rates. Several years ago, the Associated Press published an article with a report from a 20-year study by the Insurance Institute for Highway Safety. The report said two important and impressive facts. One is that, even though the death rates for traffic crashes were declining, that those 16 years old, their death rates had doubled in the 20 years. The 20 years was from 1975 to 1996. The second thing it [the study] said, was that the death rate of the 17 to 19 year olds was twice that of older drivers, but

the death rate for 16 year olds was half again as much. So, it was actually three times that of the older drivers. The reason the 16 year olds are at such high risk are, first and foremost, youth - just sheer immaturity - secondly, inexperience, and third, risk-taking behavior, which is common among young people, and is certainly exacerbated by peer pressure. Lastly, distractions while driving [are a high risk factor], which would certainly increase when other teens are in the car.

Number 2175

The good news is that since 1996, 39 states have adopted graduated licensing programs. This has drastically lowered the death rates and the crash rates for 16 year olds.

The legislation before you does three important things. It helps youth gain the experience [they need], driving under the supervision of an adult. It puts off full licensure for six months, which from the statistics, evidently is a critical time - that sixteenth year, even six months into the sixteenth year - for them to attain the maturity they need to be a better driver. It removes the highest risk factors for six months of unsupervised driving by restricting the nighttime driving and having teen passengers in the car.

I have done research on teen driving in Alaska and I've published a paper [Comparison of Young and Adult

Driver Crashes in Alaska Using Linked Traffic Crash and Hospital Data] in the Alaska Medicine Journal. I'd be happy to leave that with you. Essentially, in summary, what happens with Alaskan teens is not unlike the rest of the country. The economic burden on the state is lopsided for teens as well.

Number 2086

DUANE BANNOCK, Division of Motor Vehicles, made himself available to answer any questions regarding HB 213. He stated that the division is supportive of the bill.

Number 2061

REPRESENTATIVE LYNN moved to report CSHB 213, Version X out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 213(L&C) was moved out of the House Labor and Commerce Standing Committee.

**DRAFT**

^#hb80

HB 80-PROHIBIT SOFT DRINKS IN SCHOOL

**DRAFT**

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 80, "An Act prohibiting sales of certain soft drinks in public schools."

Number 1990

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, sponsor of HB 80 testified:

I prefer to characterize this bill as, not banning soda pop, but, instead, requiring that schools substitute sodas and carbonated beverages with healthier substitutes.

The reason I felt compelled to sponsor this bill, and this, so far, is the only bill that no one has asked me to introduce - I was interested enough to come up with the idea all by myself - was in large part due to the rising obesity and overweight that we're seeing across the nation in all age groups, in all ethnicities, but especially, pediatric obesity or childhood obesity; the resulting epidemics from obesity. I feel that, especially this year when we're focusing so much attention on the medicaid budget, that we need to refocus our health care system so that it is a health care system, and not a disease care system.

I feel that school should be a place of learning and habit formation. While kids are in school, we should be promoting healthy habits and healthy nutrition. This summer I attended a conference in Portland; it was region ten's response. It's a call to action by the surgeon general on overweight and obesity and there were some pretty interesting facts brought to my attention. Two-thirds of women are overweight or

obese in our nation. Overweight and obesity is not just a concern of those struggling to lose a few or a lot of pounds, it is really the next burgeoning, major, public health concern. For adults, obesity has doubled in the last 20 years and for adolescents, it's tripled in the last 20 years. Again, this is across all ethnic groups and ages.

They talked about this in the context of an epidemic. ... Wanda Jones, Region Ten Director for the Department of Health and Social Services, pointed out that for obese kids, the quality of life is equivalent to the quality of life that kids face who are fighting cancer and under chemotherapy ... another thing that she mentioned is that in the last year we, the federal government, have spent ... \$117,000,000,000 for obesity related diseases, including indirect cost of loss of wages and future earnings lost. When you compare that to the \$87,000,000,000 that people were outraged that we are spending on the war in Iraq and the outcry that that brought forth, where is the corresponding outcry for the cost of obesity and overweight related diseases?

Number 1840

I understand the concerns that this bill brings forth: that soda pop isn't the only factor in overweight obesity ... My hope is that this will just be one segment of a host of bills that we can put forward that would address health issues. A lot of people are concerned, not only about soda in vending machines,

but also about unhealthy snack food in vending machines and school districts having a rotating menu of fast food carriers coming in throughout the week. That's one of the examples that Juneau Douglas High School has, every day of the week they have a different fast-food industry preparing their meal.

I understand that this is primarily a family, and parent, and community responsibility but I think that it's important that we get the discussion going and this was a good starting point for me.

One of the other things I wanted to mention is that many people are concerned about the revenue that this [having vending machines] generates and that [the revenue] being eliminated. I know that (indisc.) California has mandated that schools substitute their vending machines with healthier foods, and they have actually made more money for their school's discretionary funding. I know a lot of soda industries make water; Coca-Cola, for example, produces Dasani, and Pepsi produces Aquafina and many other juices.

Number 1733

REPRESENTATIVE GATTO asked if this wasn't a subject that belongs inside the family:

If a family doesn't want to take on the job, aren't they just transferring it to the school? Number two, we have drugs in schools, alcohol in schools, we have

guns on school property, and we have bullying in schools, and all kinds of rules. It seems like we are overwhelmed with things that we have to do in schools to protect the kids. This seems like just one more way for government to have a control in schools that I would just as soon be up to the principal and the parents in that school rather than people that are sitting in Juneau. Am I wrong?

Number 1686

REPRESENTATIVE KAPSNER responded:

No, I think you are right. You raise valid points. But, like I said, \$117,000,000,000. As public policy makers we're not engaged in the prevention aspect as much as I think we could be. I am a federal taxpayer, and I shudder at the thought that we are losing \$117,000,000,000 every year, and it's going to get worse.

Many of us participated in the legislators back to school. I went to a fourth and fifth grade classroom and I asked the teacher, "Is this the average size of most fourth and fifth graders? Is this reflective of what we're seeing across the school?" She said yes. There were very large children who weighed, some of them, half again as much as I do. She said that the kids are getting bigger and bigger every year. She said that she promotes healthy choices. She talks a blue streak about making healthy choices, but a lot of times it's the parents who are not hearing that. I

think that in the vein of prevention, we should have the discussion.

REPRESENTATIVE GATTO noted that HB 80 prohibited the sale of soft drinks but not the consumption; students can therefore, bring soft drinks to school.

REPRESENTATIVE KAPSNER said:

I wasn't interested in making soda pop contraband. Like you say, we have guns, and drugs, and alcohol and a lot of other things that are contraband. I just felt that for schools to be generating a lot of revenue, and in some cases - the other thing that I wanted to prevent, in some states school districts are so hard up for money that they are engaging in contracts with the fast food industries, and, at one point, in Colorado, teachers were issued a mandate from their administrator saying, "You cannot let kids bring in sodas from home, and you have to let them drink sodas in class, because we have to make our quota, we have to meet our contractual obligations to sell X amount of whatever." This was a preventative step in that regard, too. I didn't want Alaska to get to that point.

Number 1571

REPRESENTATIVE CRAWFORD, a co-sponsor of HB 80, expressed strong support for the bill. He shared personal experiences from his foster parenting of dealing with dental issues because of the sugar content of sodas. He stated:

There's good evidence that people are wearing their pancreases out, that diabetes is on the rise exponentially, and the biggest reason for that is sodas... I wholeheartedly concur with this and I hope that we don't waste any more time and get this thing passed through the house.

REPRESENTATIVE KAPSNER talked about the cost to Alaska for dental problems of school-aged children caused by soda pop.

REPRESENTATIVE LYNN, co-sponsor of HB 80, stated that he thinks that mixed messages are being sent to school children when health classes teach good nutrition but schools do not support this teaching, because they have vending machines. He said, when children come to school, the school is acting in loco parentis, and needs to support health. He does not think sports programs should be funded by bringing in unhealthy food and drinks to the schools.

Number 1381

STEVE CLEARY, Alaska Public Interest Research Group, Anchorage, Alaska testified:

I was following this bill last year, when, I believe, it didn't get a committee hearing. When I saw it come back up again this year, I was excited to see that there are bipartisan co-sponsors and an effort to get it going in the house. I'm really excited about it. I did see a couple of good additions in there, talking about food items that derive more than 35 percent of

their calories from fat - so addressing some of the concerns about having other things than soda, that are unhealthy as well, encompassed in this bill. I think what Representative Lynn was just getting to was exactly the point that I was going to make. You learn in class how to eat healthy, how to consume healthy products, and then, kids are bombarded with advertisements with soda machines, some of whom are, pretty soon, going to start talking to us, playing music and enticing them to be unhealthy. We need to give them as much of a leg up as we can in the early parts of their lives when they are forming their habits. I'm excited to see this bill moving and I urge your support for it.

Number 1282

MARIE LAVIGNE, Executive Director, Alaska Public Health Association, said she represented over 200 members across Alaska who are committed to sound health policy and improving the public's health. She stated:

The bill before you requests an important public health strategy that uses both policy and environmental change to improve health outcomes for our children. In the case of House Bill 80, the changes in statutes directs schools, and their vendors, to offer healthful and nutritious beverages and food selections, in lieu of sugared or caffeinated filled soda and junk food. These are important components in public health strategies that we are currently underway, to address both childhood obesity,

oral health and sound nutrition. The environmental changes here, limiting access to soda and junk food during school hours, as all of you have mentioned, reinforce healthier behaviors for our school children.

Also of concern, our teenagers are consuming a large portion of their daily calories and nutrition from soda and junk foods. Our pediatricians report many teens experience calcium and iron deficiencies, as well as concerns with excessive calories, and weight gain. Our dentists show concerns for the oral health of children, one of the largest consumers of soda in recent history.

Number 1206

House Bill 80 offers directives to the nutritional contents of food items sold to our children. Let us help them make the healthiest choices, while allowing schools to continue to generate revenue from vendor sales in their schools. We applaud Representative Kapsner for bringing this bill forth and for continuing the public dialog on this issue.

I do want to point out ... with the bill as it currently is written, schools are often used by sports teams, and except in rural communities, later in the evenings than 8 [a.m.] to 5 [p.m.]. Removing the time of day would allow vendors to stock healthier products for all of its sales.

In closing, please keep in mind that our schools provide the total learning environment for developing and practicing lifelong behaviors. Healthy schools, defined as those that support good nutrition and physical activity, are part of the total learning environment that produce healthy students. Insuring that healthy snacks and foods are provided in vending machines, in school stores, and other venues within the school's control, helps to reach this goal. Schools nationwide that have made these changes offer very exciting success stories, demonstrating that students will buy, and will consume, healthy foods and beverages, when those options are tasty, easily accessible and priced right. House Bill 80 is a step in the right direction.

REPRESENTATIVE GATTO asked Ms. Lavigne if she spent much time in the schools and if so, had she noticed if any of the vending machines in the schools sold fruit juice and water.

Number 1153

MS. LAVIGNE replied that there were some items that were fruit juice blends and water. She also stated:

Some schools have chosen, on their own, to look at making policy changes. Certainly, school boards may choose to make policy decisions. Every time they make a contract with their vendor, they can choose to activate some of those choices, already. What this does is looks at a comprehensive change across all schools in Alaska.

Number 1085

DR. JULIAN NAYLOR, Alaskan Diabetes Consultant, Alaska Native Medical Hospital, testified:

I travel around the State of Alaska helping treat Alaska Native people who are suffering from diabetes, who are at risk for diabetes, and also suffering from obesity. I would like to lend my support to House Bill 80. As somebody who is on the front line with Alaska Native people, helping with these chronic disease problems, I see the effects of the growing problem with obesity in our children and our adolescents. I am frequently asked to consult on young people who are battling health problems that have to do with obesity.

One of the first questions I ask them is "How much soda pop are you drinking?" Especially in the rural areas of Alaska, it is amazing how much soda kids can take in one day. This is a huge source of empty calories and it's driving, I believe, in part, the obesity epidemic that we are seeing in our young children and our teenagers. In Alaskan Native people, the rates of diabetes are going up tremendously. We actually, in Indian country, have the highest rate of increase of diabetes of any of the Indian nations around the country, and it's of great concern to us. There's no question, it links into obesity, and when obesity starts at a young age, it leads to obesity as an adult, and increases the incidence of diabetes. I

really believe that decreasing the soda pop consumption - there have been several studies shown that this does impact positively, weight gain in young people.

Within our rural communities, there have been several schools that have taken the initiative to remove the soda from the school. I am presently in Kotzebue, Alaska, doing an annual diabetes clinic. Kotzebue is one of the towns that have made their high school a soda pop free environment. Their machines here now have milk, juice, and water as the beverage choices. I can't say this for sure, but I know from what I've heard since I've been in town, that there's not been a lot of grumbling from the kids, and they are very eager to pick other choices out of the machine instead.

I would heartily encourage the committee to consider bill 80. I think we need to pay attention to the health of our young people in Alaska, and this is one very positive step forward in this battle against obesity.

Number 0939

REPRESENTATIVE KAPSNER added, "This really isn't just an Alaska Native issue or Indian country issue. The school that I visited was actually in Juneau. There weren't very many native kids in the class. This is a national epidemic."

Number 0913

JENNIFER APP, Alaska Advocacy Director, American Heart Association, noted that much of her planned testimony has already been given by others. She stated:

We know that our children are getting heavier. We know that in Alaska our children are getting heavier quicker than the national average, unfortunately. We also know that there are a multitude of causes behind this. A decrease in physical education is a big one; but a corresponding one is an increase in consumption of fatty and sugary foods and higher calories everyday. The statistics are really pretty amazing.

Young Americans have increased their annual soft drink consumption from 27 to 44 gallons between the seventies and the nineties. Further, they are eating about 400 more calories a day than they did, just in the mid eighties. They don't make up for it with additional exercise. The combination of these two things really has an impact. There's a direct correlation between what we put in our bodies and how heavy we weigh.

Number 0809

This also corresponds, from the seventies to the present, with the placement of vending machines in schools. I don't think that there's probably a person among us, either testifying, or listening to the testimony, that can recall that, as a young kid, we had vending machines. I'm 32 and I know I didn't have

vending machines as a child. This is a new phenomenon. You can track vending machine placement with the rise in obesity. We have, in essence, surrounded our children with bad choices, unhealthy choices. I think this bill is a good step forward in terms of looking at what very simple choices we can make in offering healthier choices.

There's one other statistic I'd like to share with you. About 60 percent of overweight children have at least one high risk factor for heart disease by age ten. This is high cholesterol or high blood pressure. This is amazing. We have children at age ten who are obese who are demonstrating that they are good candidates to have heart disease. I can't tell you how disturbing this is to the American Heart Association and to see that this trend nationwide and in Alaska is getting worse and worse. This bill is a good step in the right direction.

Number 0769

REPRESENTATIVE GATTO asked if Ms. APP would have any objection to diet pop.

MS. APP commented that diet pop is not necessarily a healthy option, however, it does have a lower calorie content. She said it does contain aspartame and other carcinogens with serious side effects.

Number 0536

SHELLEY McLAUGHLIN-TRUE, Dental Hygienist, Haines testified:

I work in private practice here, one week a month, and work for Indian Health Services in Haines, for the rest of the month, year round. I wanted to lend my support to this bill. I hear a lot about diet, and obesity, and the diabetes problem. I'm here to tell you that the dental aspect of this is just as important.

Not a week goes by that I don't see one child, probably more, totally blown out. It's a very distinctive decay, right at the gum line. They come in and it's neglect, it's lack of education. The place for education is in the school. I really do believe that these machines don't have a place in the school. We should be consistent with the message that we are giving. I don't think that this is a problem that is in one socio-economic group only. I see it with very wealthy kids and I see it in the villages, all over the place. It's a very important issue. Dental hygienists have been fighting this in the schools, trying to get these machines out of the schools. Unless there is something that says they can't be there, we lose because those machines make lots of money. They support sports, they support drama classes, they support trips out of town, and those trips out of town are very important to the schools. I think they need to find another way to do it.

Number 0427

I want to lend my support for this bill. I wish it were a lot stricter than what it is. \$1,000,000 spent on medicare is a drop in the bucket. That does not count the charity dental work that is given away and it does not count, I don't think, the Indian Health Services. You can't believe the amount of money that is put into children's mouths in this state.

Number 0380

CHAIR ANDERSON stated that he would hold HB 80, before the committee and keep public testimony open.

**DRAFT**

^#hb450

HB 450-INSURANCE & WORKERS' COMPENSATION SYSTEM

**DRAFT**

CHAIR ANDERSON announced that the final order of business would be a presentation of HOUSE BILL NO. 450, "An Act providing for a special deposit for workers' compensation insurers; relating to the board of governors of the Alaska Insurance Guaranty Association; relating to covered workers' compensation claims paid by the Alaska Insurance Guaranty Association; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to restructuring the Alaska workers' compensation system; eliminating the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development and assigning certain Alaska Workers' Compensation Board functions to the division and the Department of Labor and Workforce Development; establishing a Workers' Compensation

Appeals Commission; assigning certain functions of the Alaska Workers' Compensation Board to the Workers' Compensation Appeals Commission; relating to agreements that discharge workers' compensation liability; providing for hearing officers in workers' compensation proceedings; relating to workers' compensation awards; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to assigned risk pools and insurers; and providing for an effective date."

Number 0271

PAUL F. LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development, testified:

What I would like to do is to begin to address the parts of this very lengthy bill that sound in the area of impacts on the Alaska Workers' Compensation Act. I will defer to Director Hall on the portions of the bill that address insurance issues.

Recognizing that we do have some time constraints, I will try and keep my presentation as focused as I can. House Bill 450 addresses a number of important issues that are in the Workers' Compensation Act. There are three primary goals for purposes of focusing our

inquiry here today. First of all there is, contrary to some comments I had made earlier that there wouldn't be any change in benefits, there is one small change to the benefits that are, at this time, payable under the Workers' Compensation Act. But it is a relatively small change, and I will explain it in a moment, but I just wanted to be clear, factually correct, that there is one small change in the benefits.

Number 0172

Second, this bill would formally establish a division of workers' compensation and a position of director of workers' compensation. I am living proof, for better or for worse, I hope for better, that there is such a position already, and that it does have an incumbent, but actually, there is nothing in the Workers' Compensation Act, at this time, that establishes this position or gives it particular oversight authorities for the workers' compensation program.

Most of the responsibilities of the workers' compensation program are not in the hands of the workers' compensation board and there are a number of things that the division director and the division do to implement their powers. This bill would formally establish the position and give the director responsibility over a number of the areas that are right now, formally in the hands of the workers' compensation board.

Finally, and most significantly, what this bill would do is attempt to reorganize and streamline the process of resolving disputed benefit claims and do the same to the initial appeal process for those disputes. In order to speed up the decision making process, and to promote a more consistent and predictable series of decisions, over these disputes. The overall goal there, would be to have a more stable insurance environment that would perhaps be more conducive to answering some of the questions that I think will be addressed by Director Hall, in terms of the insurance market. The primary means in this bill to do that is to invoke a new workers' compensation appeals commission which would be formed, which would replace the current workers' compensation board ...

**TAPE 04-12, SIDE A**

Number 0032

This bill, while it is 58 pages long, is not 58 pages long because there are that many substantive changes to the Alaska Workers' Compensation Act. If there were, I'm sure we could be here till midnight, just to briefly touch on this. Instead, most of the changes are needed to implement the provisions that would replace the workers' compensation board with this new commission and with new hearing officers and a new formalized division and director of workers' compensation.

I believe in the section by section analysis, referred to as conforming sections, and basically it's to, in a

nutshell, take functions that already exist in the Workers' Compensation Act, that are, right now, assigned to the Alaska workers' compensation board and it reallocates those current powers and responsibilities, or reassigns them, if you will, to the new commission, Department of Labor and Workforce Development, or to the Division of Workers' Compensation, or to the Director of that division.

In essence, because the board is mentioned in so many different ways in the Workers' Compensation Act, if you are going to change the board, you are going to, by necessity, have a very thick bill.

Getting back to the first note of changes in the Workers' Compensation Act, the one that impacts benefits, right now there is a requirement that weekly compensation benefits be paid at a certain rate, a basic rate, an in-state rate, if you will. Then, if someone moves to a different locality outside of the state of Alaska, the division is tasked with having a company that calculates cost of living differences between Alaska; I believe it's keyed to Anchorage, and to wherever the residency of this person is now.

Number 0190

The change in this house bill is in Section 86. What Section 86 would do is it would put a cap on any cost of living adjustments that go up. The cap would be the in-state rate. Essentially, what would happen is, there would be a comparison of the cost of living in

the new area of residence, or some people reside outside the state and work here, as we know, and some of them do get hurt. What this cap would bring about is that no one would get a compensation rate that exceeds what we would pay to a resident of Alaska, because they moved outside after they got hurt, or because they were living outside when they were working in Alaska. That is the only change to the benefit package in any of the 58 pages. It is, strictly speaking, a change and I wanted to make sure that that was underscored.

Number 0267

The second section, which I mentioned, establishes a director of a division of workers' compensation is in Section 10 of the bill. You can see under that provision that there are a substantial number of responsibilities that will be placed in the hands of the director. The director will be responsible to the commissioner of the Department of Labor and Workforce Development, for the overall execution of the duties and responsibilities of the Alaska Workers' Compensation Act and is also responsible for adopting regulations to implement the act.

There are a number of powers that are listed here; I won't go through all of them. There are two that I believe are noteworthy and they are changes from the status quo and I think they are something that the committee would want to be aware of and weigh.

Section 39 gives what we have described as a powerful new tool to the division of workers' compensation to wield in our ongoing efforts to stop uninsured employers from operating without the required insurance. As you know, right now there is a statute in force in the Workers' Compensation Act, that requires that all employers, either self insure, which is a very small handful of larger businesses, and public entities, or more commonly, get insurance coverage through an insurer that's approved for writing workers' compensation liability insurance in the state of Alaska.

The trouble comes in when there are employers that fail their responsibilities to keep insured. Right now, there is a criminal provision which is very rarely able to be invoked because of the requirements to get a criminal prosecution through. There is also a provision which is more commonly invoked where our investigator locates an employer that is operating without the required insurance, ascertains that they are apparently doing that to a reasonable degree of understanding, gives them an accusation and calls them in front of the workers' compensation board to answer. What commonly happens are two things. One, the employer comes in and admits that they were previously uninsured and did have employees that were operating without this required protection.

What they will then say is that one, either they no longer are in operation and if that is the case, that kind of brings things to a halt, because the only civil penalty is to order them to stop work. There's a stop work order. Well, they're saying that they have no intention of working any longer, then a stop work order really doesn't really accomplish anything. The other thing that happens even more often is they admit that they were uninsured and they say that, by golly, now they are insured. They went out and got the proper insurance and they would like to be able to proceed. Again, there is no reason to invoke a stop order if someone is now properly insured. What they do is they kind of "get out of jail free."

What this provision would do, is it would give a powerful new tool to the division to say, alright, we think that you were uninsured, and if we can prove it, we're going to seek a penalty of up to \$100 a day that you were operating with employees, and not properly insured, and it's \$100 a day for every employee. So, if they have five employees for each day, the maximum penalty would be \$500 per day.

Number 0544

I took a quick look at our last annual report for the division of workers' compensation. Our investigator was able to come up with approximately 180 employers that were proven to be operating without insurance, and by dint of our efforts, was able to get them to insure. The total number of employees that got

covered because of that was in excess of 2,000. So, even if it was just a single day's penalty, that would be like \$200,000. It's not that we're trying to finance anything with this; the intention is to give us a tool to keep going with what we've already got, which is a zero tolerance policy. Everybody that we identify, we try to bring into conformity.

Number 0587

We're very concerned because the absence of insurance means that the employer is putting their employees at physical risk, that they may not be able to get medical benefits if they are hurt, and financial risk if they don't get the time loss benefits that they are entitled to, if they get hurt. And, the employer that goes uninsured is also gaining an unfair competitive advantage over the law-abiding employers in the state.

Number 0654

REPRESENTATIVE CRAWFORD asked Mr. Lisankie if he was aware of the committee bill in process that would require owner operators to provide workers' compensation insurance "Because of the fact that many times an owner operator becomes injured and then it goes back on the general contractor to provide insurance for that sub [contractor]. Wouldn't it be a good place to insert that into this bill rather than take our whole bill through the process so that more people get covered by workers' compensation insurance?"

MR. LISANKIE noted that he was aware of that bill and that it was possible that it could be combined. He went on to summarize:

The current Alaska workers' compensation board would be replaced by a workers' compensation appeals commission. The current board hears disputed claims and then disputes, [that come] from panels of the workers' compensation board, are initially appealed to the superior court. The workers' compensation appeals commission would replace the superior court as the site of that initial appeal. The workers' compensation appeals commission would employ hearing officers who would do the initial decision-making that, right now, is made by the board-hearing panel.

The reasoning behind that is that, at least two times, in 1988 and 2001, the Workers' Compensation Act was amended. The statutory intent language called for interpretation of the Act to insure quick, efficient, fair, and predictable delivery of benefits to injured workers, at reasonable cost to employers. This is designed to address those concerns of fairness and predictability.

Number 0850

The problem, very quickly, is that there are many hearing panels, because they are consisting of two lay board members and a hearing officer. Currently we have eight authorized hearing officers, but we only have six [positions] that are actually filled. The

change is now the commission would hear the appeal and instead of the board-hearing panel, there would just be a hearing officer that would do that initial claim. Then it would go to the appeal's commission which would be made up of three commissioners who are appointed by the governor, confirmed by the legislature, based on their experience and expertise in workers' compensation law. The final stage would continue to be the Alaska Supreme Court, as it is now.

Number 0904

REPRESENTATIVE CRAWFORD asked who would pay the bill for an injured worker that wanted to take a claim through the appeals process all the way to the supreme court.

MR. LISANKIE replied that the employee, the injured worker, has the primary responsibility to pay throughout the appeal process and if they win and they have an attorney, then the attorney's fees and costs are paid typically by the insurer.

REPRESENTATIVE CRAWFORD asked for clarification:

So, rather than going through this board where you have multiple voices, you would just have one voice, that could be slanted either way, and then from that point forward, you have to pay your own bills. That would preclude any injured worker that I know from being able to "take it home" past that - I know when I was injured, and on workers' comp. I had to go back to work way before I was healed, because I couldn't afford to live on the \$259 a week that I was getting.

I couldn't even walk right when I went back out on a construction site. So how in the world would I be able to pay for a lawyer to appeal it?

Number 1000

CHAIR ANDERSON asked what the current scenario is when a worker is injured in terms of payment of fees.

MR. LISANKIE replied:

As I said, Mr. Chairman, right now there is a provision that you get an attorney, your attorney works on contingency, and if you prevail, then your insurer is ordered to pay. Under this new bill, if the injured worker is not represented by counsel, and they are dissatisfied with the decision from the hearing officer, the director of the division, assuming that the decision turns on an unsettled matter of law, would be empowered to file an appeal on their behalf. So, that would actually be an improvement, as far as that goes. That is going somewhat in the direction of getting representation without having to pay for it.

REPRESENTATIVE GATTO commented that, "Empowered is not required, am I correct?"

MR. LISANKIE replied that he did not want to comment in case he would mislead the committee.

Number 1113

LINDA HALL, Director, Division of Insurance, Department of Labor and Workforce Development, asked if she should hold her comments, in the interests of time, until the beginning of the next hearing on the bill, since Chair Anderson had mentioned that the bill would be held.

CHAIR ANDERSON announced that HB 450 was held over.

## **DRAFT**

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### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:15 p.m.