

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

February 16, 2004

1:40 p.m.

**MEMBERS PRESENT**

Representative Lesil McGuire, Chair  
Representative Tom Anderson, Vice Chair  
Representative Jim Holm  
Representative Dan Ogg  
Representative Ralph Samuels  
Representative Les Gara  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Harry Crawford

**COMMITTEE CALENDAR**

HOUSE BILL NO. 414

"An Act relating to filling the vacancy in the office of United States senator, and to the definition of 'political party.'"

- MOVED CSHB 414(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 367

"An Act relating to the licensing and regulation of sex-oriented businesses and sex-oriented business entertainers; relating to protection of the safety and health of and to education of young persons who perform in adult entertainment establishments; and providing for an effective date."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 414

SHORT TITLE: U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

SPONSOR(S): JUDICIARY

01/28/04           (H)           READ THE FIRST TIME - REFERRALS

01/28/04 (H) STA, JUD  
02/03/04 (H) STA AT 8:00 AM CAPITOL 102  
02/03/04 (H) Heard & Held  
02/03/04 (H) MINUTE(STA)  
02/04/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/04/04 (H) -- Meeting Canceled --  
02/05/04 (H) STA AT 8:00 AM CAPITOL 102  
02/05/04 (H) Moved CSHB 414(STA) Out of Committee  
02/05/04 (H) MINUTE(STA)  
02/09/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/09/04 (H) <Bill Hearing Postponed to 2/16/04>  
02/12/04 (H) STA RPT CS(STA) 3DP 1DNP 3NR  
02/12/04 (H) DP: SEATON, COGHILL, WEYHRAUCH;  
02/12/04 (H) DNP: BERKOWITZ; NR: GRUENBERG, HOLM,  
02/12/04 (H) LYNN  
02/16/04 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 367

SHORT TITLE: LICENSING SEX-ORIENTED BUSINESSES

SPONSOR(S): REPRESENTATIVE(S): MCGUIRE, GARA

01/12/04 (H) PREFILE RELEASED 1/9/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) L&C, JUD, FIN  
01/30/04 (H) L&C AT 3:15 PM CAPITOL 17  
01/30/04 (H) Heard & Held  
01/30/04 (H) MINUTE(L&C)  
02/02/04 (H) L&C AT 3:15 PM CAPITOL 17  
02/02/04 (H) Moved CSHB 367(L&C) Out of Committee  
02/02/04 (H) MINUTE(L&C)  
02/05/04 (H) L&C RPT CS(L&C) NT 2DP 3NR 2AM  
02/05/04 (H) DP: DAHLSTROM, ANDERSON; NR: CRAWFORD,  
02/05/04 (H) LYNN, GATTO; AM: ROKEBERG, GUTTENBERG  
02/09/04 (H) JUD AT 1:00 PM CAPITOL 120  
02/09/04 (H) <Bill Hearing Postponed to 2/16/04>  
02/16/04 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

DON ROBERTS

Kodiak, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 414 and urged the committee to change the definition of political party.

KATHY HARTMAN, Owner

Fantasies on 5th Avenue

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 367.

PAUL HARRIS, Director

Fairbanks Police Department (FPD)

City of Fairbanks

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 367.

JOHNNY RAY KRUSE

Showboat II

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HB 367, related his experience at Showboat II.

REGINA MANTEUFEL

(No address provided)

POSITION STATEMENT: During discussion of HB 367, relayed her personal experience with [sex-oriented businesses] and offered suggestions in regard to addressing problems [in the industry].

DOUGLAS B. GRIFFIN, Director

Alcoholic Beverage Control Board (ABC Board)

Department of Public Safety (DPS)

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 367, relayed the ABC Board's role with sex-oriented establishments.

RAYMOND STEMBA

Fort Wainwright, Alaska

POSITION STATEMENT: As a member of the U.S. Army, testified that if this legislation is passed it will, [for individuals between the age of 18 and 21], take away the constitutional right to freedom of expression.

ANDREE McLEOD

Anchorage, Alaska

POSITION STATEMENT: Suggested that the committee lead the direction of this legislation to a higher ground by amending HB 367 to refer to adult-entertainment businesses rather sex-oriented businesses, and suggested that the fiscal note for HB 367 should take into account the probable court challenge.

NANCY WEBB

Fairbanks, Alaska

POSITION STATEMENT: During discussion of HB 367, relayed her observations of what occurs in the adult-entertainment business.

SHAWN GRAVELLE

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 367, referred to 18 year olds as adults.

SARA CASTEEL

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 367, discussed First Amendment rights.

MARCI HALES

Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 367, testified.

JOHN FILLMEM (ph)

Showboat Show Club

Anchorage, Alaska

POSITION STATEMENT: Testified that [HB 367] takes away his right to make a living.

CAROL HARTMAN, Owner

Fantasies on 5th Avenue

Anchorage, Alaska

POSITION STATEMENT: Testified on HB 367.

AMBER REINHARDT

Showboat Show Club

Anchorage, Alaska

POSITION STATEMENT: During discussion on HB 367, testified that it is wrong to take away her rights as an adult to do what she pleases.

CHRIS HUNT

Anchorage, Alaska

POSITION STATEMENT: Related his situation after speaking on HB 367.

JACQUELINE PICKENS

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 367, provided the committee with an application for employment from Showboat.

TROY LASNETSKE

Anchorage, Alaska

POSITION STATEMENT: During discussion of HB 367, noted his disagreement with the age requirement of 21.

DOUG HARTMAN

Showboat Show Club  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 367.

JESSICA COX

Showboat Show Club  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 367.

#### **ACTION NARRATIVE**

#### **TAPE 04-14, SIDE A**

Number 0001

**CHAIR LESIL MCGUIRE** called the House Judiciary Standing Committee meeting to order at 1:40 p.m. Representatives McGuire, Anderson, Holm, Ogg, Samuels, Gara, and Gruenberg were present at the call to order.

#### HB 414 - U.S.SENATE VACANCY/DEF OF POLITICAL PARTY

Number 0079

CHAIR MCGUIRE announced that the first order of business would be HOUSE BILL NO. 414, "An Act relating to filling the vacancy in the office of United States senator, and to the definition of 'political party.'" [Before the committee was CSHB 414(STA).]

CHAIR MCGUIRE indicated that HB 414 was engendered by the overwhelming response to a ballot initiative sponsored by Trust the People regarding how Alaska fills U.S. Senate seat vacancies. She noted that over the years, changes have occurred to how those vacancies are filled; thus "tinkering" with this process is not unusual. Currently, such vacancies are filled by appointment, but the ballot initiative seeks to change the process so that vacancies would be filled via a special election. She remarked, however, that there are those who believe that changing how a U.S. Senate seat vacancy is filled via the initiative process is unconstitutional; thus HB 414 proposes to make the same change via statute instead. The Seventeenth Amendment of the U.S. Constitution governs how such vacancies are to be filled, and says in part:

When Vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided, That the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

CHAIR McGUIRE indicated that HB 414 also expands the types of races that the Division of Elections can look to in order to ascertain whether a political party enjoys enough popular support to merit official status. This change is in response to the court order issued by Judge Reese in the Alaska Superior Court case, Green Party of Alaska v. State, Division of Elections. She then noted that the committee would also be considering amendments to HB 414.

Number 0524

DON ROBERTS said that his greatest criticism of HB 414 pertains to the definition of political party: He elaborated:

It calls for a party candidate to receive 3 percent of the vote for governor, U.S. Senator, or U.S. Representative. I find this to be unacceptable. A political party is nothing more than an organization with a particular political agenda. Whether it [fields] a candidate at all is irrelevant. No party should be required to field a candidate just to retain their party status. Also, a vote for a candidate should not necessarily be considered as support for a particular party. There are a number of reasons a person would vote for a candidate, and party support may not even be a part of that decision.

I'm a registered Democrat and I've, in the past, voted for Republicans because [of] the individual; I didn't realize I was supporting the entire Republican platform. The democratic process amends many perspectives. Requiring parties to use resources to field candidates before they're ready to do so could deprive Alaska of important perspectives. Democracy is about ideas, ... not people. Political parties should be free to foster ideas that will contribute to the political dialogue. I urge the committee to change the definition of political party to one that

is more befitting of a democratic society. Thank you very much.

CHAIR McGUIRE, after ascertaining that no one else wished to testify, closed public testimony on HB 414.

Number 0656

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 1, labeled 23-LS1514\S.5, Kurtz, 2/16/04, which read:

Page 1, line 1, following "**filling**":  
Delete "**the**"  
Insert "**a**"

CHAIR McGUIRE asked whether there were any objections to Amendment 1. There being none, Amendment 1 was adopted.

Number 0684

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 2, labeled 23-LS1514\S.6, Kurtz, 2/16/04, which read:

Page 1, lines 6 - 7:  
Delete "secs. 2 - 7 and 9"  
Insert "secs. 2 - 8 and 10"

Page 2, following line 2:  
Insert a new bill section to read:  
"**\* Sec. 3.** AS 15.40 is amended by adding a new section to read:

**Sec. 15.40.145. Temporary appointment of United States senator.** When a vacancy occurs in the office of United States senator, the governor may appoint a qualified individual to fill the vacancy temporarily until the results of the special election called to fill the vacancy are certified. If a special election is not called for the reasons set out in AS 15.40.140, the individual shall fill the vacancy temporarily until the results of the next general election are certified."

Renumber the following bill sections accordingly.

Number 0710

CHAIR McGUIRE objected for the purpose of discussion.

REPRESENTATIVE GRUENBERG offered that without Amendment 2, there will be a period of time, between the time the vacancy occurs and the time the election is certified, during which Alaska would not have a U.S. Senator performing his/her duties, and which could amount to several months. Amendment 2 allows the governor to appoint someone temporarily to fill the seat, and that temporary appointment would be terminated at the time the election results, either special or general, are certified.

CHAIR MCGUIRE asked Representative Gruenberg whether he would be willing to consider amending Amendment 2 by adding, between "senator" and ",the governor", the words, "at least five days after the date of the vacancy but within 30 days after the date of the vacancy". She mentioned that this proposed change to Amendment 2 was suggested by the lieutenant governor's chief of staff, Annette Kreitzer, and would serve the purpose of ensuring conformity with existing law.

REPRESENTATIVE GRUENBERG said he would consider that as a friendly "conceptual" amendment to Amendment 2.

[Although no formal motion was made, Amendment 2 was treated as amended.]

Number 0894

REPRESENTATIVE GRUENBERG noted that the reason U.S. Representatives are not included in Amendment 2 [as amended] is because the U.S. Constitution already provides that a vacancy in the U.S. House of Representatives can only be filled by election, not by gubernatorial appointment. He suggested that the House Judiciary Standing Committee introduce a joint resolution urging Congress to amend the U.S. Constitution to allow a temporary vacancy in the U.S. House of Representatives to be filled in the same manner as is being proposed via Amendment 2 [as amended] to HB 414. He added that he would be willing to have a joint resolution to that effect drafted and brought to the committee for consideration.

CHAIR MCGUIRE said she thought that would be a good idea, adding that the committee could consider that joint resolution at another time.

CHAIR MCGUIRE removed her objection to Amendment 2 [as amended].

REPRESENTATIVE GARA offered his understanding that the Seventeenth Amendment already provides the governor with the ability to appoint a temporary replacement to fill a U.S. Senate seat vacancy.

CHAIR McGUIRE agreed that it does, but suggested that it does not specifically address special elections. She offered her belief that the initiative process is not the appropriate method by which to address this issue; instead, the legislature ought to address it and do so as clearly and as entirely as possible.

REPRESENTATIVE GARA said that although he would not be opposing Amendment 2 [as amended], he posited that without it, if a vacancy occurs, the legislature could still grant the governor the power to fill it. "We can do it more cleanly with this amendment," he acknowledged.

Number 1196

CHAIR McGUIRE asked whether there were any further objections to Amendment 2 [as amended]. There being none, Amendment 2 [as amended] was adopted.

Number 1206

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 3, labeled 23-LS1514\H.2, Kurtz, 2/4/04, which read:

Page 3, following line 14:

Insert a new bill section to read:

"\* **Sec. 7.** AS 15.45.010 is amended to read:

**Sec. 15.45.010. Provision and scope for use of the initiative.** The law-making powers assigned to the legislature, including the power assigned to the legislature by the Seventeenth Amendment to the Constitution of the United States to direct how vacancies in the United States Senate shall be filled, may be exercised by the people through the initiative. However, an initiative may not be proposed to dedicate revenue, to make or repeal appropriations, to create courts, to define the jurisdiction of courts or prescribe their rules, or to enact local or special legislation."

Re-number the following bill sections accordingly.

Number 1226

CHAIR MCGUIRE objected.

REPRESENTATIVE GRUENBERG offered his belief that both the Alaska State Constitution and state statutes allow for the initiative process to change how Alaska fills a vacancy in the U.S. Senate. He added:

I don't want there to be any legal problem with that in the future, and [Amendment 3] simply ... makes it crystal clear that the legislature is allowing the initiative process to be utilized, under the Seventeenth Amendment, to direct how vacancies in the U.S. Senate may be filled, and it makes [it] very, very clear.

CHAIR MCGUIRE said that although she agrees with the concept of Amendment 3, she would be opposing it. She offered her belief that even indirectly, a U.S. constitutional provision cannot be changed by state statute, adding that that is what she believes Amendment 3 attempts to do even though that may not be intent of the amendment's sponsor. She opined that the legislature's power to direct how a vacancy in the U.S. Senate may be filled is similar to the legislature's power regarding appropriations in that it is not one that can be given away, and suggested that the courts might hold the same view.

REPRESENTATIVE GRUENBERG opined that the Seventeenth Amendment allows the legislature to direct the method by which a vacancy in the U.S. Senate may be filled, and according to a report by Legislative Legal and Research Services, Wyoming, for example, has specifically directed its governor to select from a list proffered by a central committee of the political party to which the predecessor belonged. Representative Gruenberg noted that state legislatures have addressed this issue in a variety of ways, and opined that the only reason the initiative process couldn't be used would be if state [statute] specifically didn't allow it. He referred to a U.S. Supreme Court case, California Democratic Party v. Jones, as an example of the initiative process making changes to the election process, including U.S. Senate seat elections.

Number 1547

REPRESENTATIVE GRUENBERG said that Amendment 3 simply allows the legislature to delegate to the voters the right, via the initiative process, to change the method of filling a U.S.

Senate seat vacancy. He opined Amendment 3 meets both the spirit and the letter of the Seventeenth Amendment because, if passed, it will allow the people to change the method at the direction of the legislature via enacted legislation. He also opined that the argument could be made that voters impliedly have that power because of language in AS 15.45.010; passing Amendment 3 merely clarifies the issue. He urged members to adopt Amendment 3, and relayed that if any forthcoming legal opinion says that the language of Amendment 3 is unconstitutional, then he would join with members on the House floor in removing the language from HB 414.

REPRESENTATIVE GARA said he supports Amendment 3. "What we should do is expand the people's right to place initiatives on the ballot as much as reasonably possible, and [Amendment 3] does this," he added. He offered his belief that the language in the Seventeenth Amendment allows the legislature set up the rules governing the filling of vacancies, and that Amendment 3 in turn merely allows the legislature to set up the rule that one way of governing how a vacancy is filled is via the initiative process. He stated: "Representative Gruenberg's amendment does exactly what the United States Constitution invites us to do, so really the question here is whether or not we want to give the people that power ...." He went on to say that he agrees with Chair McGuire that under current law, those challenging the initiative might be able to knock the initiative off the ballot; Amendment 3 would prevent such from occurring in the future by expanding the people's right to fill vacancies via direct elections.

REPRESENTATIVE SAMUELS said he disagrees that the Seventeenth Amendment is inviting the legislature to do as Amendment 3 proposes, adding his opinion that it doesn't say anything [other] than that the legislature may empower the executive branch.

REPRESENTATIVE OGG noted that from a historical perspective, in the original U.S. Constitution, U.S. Senators were not elected - they were appointed by state legislatures; the amendments to the U.S. Constitution later allowed U.S. Senators to be elected. He suggested that the current language in the Seventeenth Amendment does not address the issue of initiatives, and indicated a preference for waiting for a legal opinion on this issue before adopting the language proposed in Amendment 3.

Number 1761

CHAIR McGUIRE opined that when used in the Seventeenth Amendment, the term, "legislature" does not translate into, "initiative process", and reiterated her belief that this is a legislative power that can't be delegated. She remarked, however, that if a forthcoming legal opinion says that there is no problem with adding the language proposed in Amendment 3, then she would be willing to consider a motion on the House floor. In response to a question, she indicated a preference for moving the bill from committee today rather than holding it until a legal opinion is obtained.

REPRESENTATIVE GRUENBERG, in conclusion, opined that nothing in either the Alaska State Constitution or the U.S. Constitution prohibits what is being proposed via Amendment 3.

CHAIR McGUIRE reiterated her belief that the term, "legislature", as used in the Seventeenth Amendment, does not translate into, "the people through initiative".

REPRESENTATIVE ANDERSON called the question.

CHAIR McGUIRE asked for wrap-up on the debate.

Number 1962

REPRESENTATIVE GARA opined that in general, it is the House Judiciary Standing Committee's job to research and analyze legal issues before moving legislation from committee. In response to a previous comment, he reiterated his belief that Amendment 3 is merely responding to the Seventeenth Amendment's invitation for the legislature to direct the filling of a U.S. Senate seat vacancy by saying that the legislature has decided that a change to the process of filling such a vacancy can be done via the initiative process. If members are concerned that the initiative changing the current process is unconstitutional, then the committee should adopt Amendment 3 and thereby clarify that an initiative of this sort is allowed, he remarked.

REPRESENTATIVE SAMUELS said he still disagrees with Representative Gara's interpretation of the Seventeenth Amendment, and opined that the legislature should be very careful to not view this issue in terms of the current situation, and should instead consider what will be good public policy 20 years in the future. He said he viewed the language in the Seventeenth Amendment as being gray rather than black and white.

REPRESENTATIVE OGG opined that the Seventeenth Amendment specifies that the legislature may direct how an election to fill a vacancy takes place, but not that the method of filling such a vacancy can be changed via the initiative process. He noted that California already had an initiative process laid out in its constitution before the Seventeenth Amendment was adopted; the fact that the Seventeenth Amendment does not address that process specifically, he indicated, is perhaps evidence that it was not meant to be included.

REPRESENTATIVE GRUENBERG, referring again to the Legislative Legal and Research Services report, said that what Wyoming has done is precedent for what he is attempting via Amendment 3, since - although Wyoming is not specifically using the initiative process - it is delegating authority to a central committee of a political party.

CHAIR MCGUIRE assured members that an opinion on the issues raised by Amendment 3 will be forthcoming.

Number 2226

A roll call vote was taken. Representatives Gara and Gruenberg voted in favor of Amendment 3. Representatives Ogg, Holm, Samuels, Anderson, and McGuire voted against it. Therefore, Amendment 3 failed by a vote of 2-5.

Number 2255

REPRESENTATIVE GRUENBERG made a motion to adopt Amendment 4, labeled 23-LS1514\S.1, Kurtz, 2/13/04, which, along with an added handwritten note, read:

Page 4, following line 7:

Insert new bill sections to read:

**"\* Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to read:

CONTINGENT EFFECT. Sections 1 - 7 and 9 of this Act take effect only if

(1) a substantially similar initiative is adopted by the voters;

(2) that initiative is subsequently invalidated by a court in a final judgment that the federal constitution limits the electorate's ability to enact an initiative on this subject; and

(3) the time for an appeal of the judgment has expired or, if an appeal was taken, a final order

on the appeal has been entered invalidating the initiative.

\* **Sec. 11.** If secs. 1 - 7 and 9 of this Act take effect, they take effect on the date that the time for an appeal of a judgment under sec. 10(2) of this Act has expired or the court order specified in sec. 10(3) of this Act becomes final."

Note: Section numbers in lines 5 and 12 of this amendment refer to the State Affairs CS unamended. If amendments are added, these references may have to be changed to reflect the new section numbers.

Number 2263

REPRESENTATIVE ANDERSON objected.

REPRESENTATIVE GRUENBERG, noting that he is offering Amendment 4 on behalf of himself and Representative Berkowitz, relayed that Amendment 4 proposes to have certain sections of HB 414 take effect only if the aforementioned initiative is adopted and then invalidated by a court and the time for an appeal expires. Amendment 4 will allow the initiative process to go forward, but if it is then subsequently invalidated, then the same change to the method of filling a U.S. Senate seat vacancy would be created by legislative enactment. Amendment 4 would ensure that the people are allowed to speak. He went on to say:

The initiative process, I believe ..., has two benefits. Number one, it allows a bill to be enacted. But number two, it allows the people to speak. And there is something to be said [for] allowing the people the right to express themselves. Even if we all agree it's a good idea - and I think ... [the vast majority of legislators] do agree that the substance of the initiative is a good idea ... - there is something to be said for allowing the people to be heard directly.

A lot of time and effort have been put into that initiative. A lot of people have signed the petition. A lot of people want to be heard, and they want to [go] out and vote. And what [HB 414 without Amendment 4] will do is deny them the right to vote on that initiative. ... If you have an election, and there is only one person running, we could have, in law, a provision that says, "Well, that person is elected -

we don't hold the election." But that's not the way it works because the people have a right to vote. And the same policy is here; the people deserve the right to vote.

REPRESENTATIVE GARA, noting that he would not be offering an amendment that he'd handed out earlier because it proposes the same change as Amendment 4, relayed that he would be using discussion on Amendment 4 to speak to the bill because it goes right to his biggest concern. He then said:

We've all undoubtedly received e-mails from voters who are concerned about this. If we allow the people's initiative to go forward, it can't be changed by the legislature for a minimum period of two years. That's the beauty of the ... initiative process under our [Alaska State] Constitution; it says the people are allowed [to establish a law and the legislature can't mess with it for two years.] [The preceding bracketed portion was taken from the Gavel to Gavel recording on the Internet.]

**TAPE 04-14, SIDE B**

Number 2395

REPRESENTATIVE GARA continued:

If we pass this bill, it can be changed the day after we pass [it]. ... The initiative process gives the people a much greater assurance that their will, will not be thwarted by the legislature. ... We all want the people to have the right to demand a direct election of their own U.S. Senator by the initiative process. The concern of this bill is that maybe the people don't have [that] right under the [Alaska State] Constitution. ... [Amendment 4] says, if the people do have the right under the [Alaska State] Constitution - when the courts review this case - then just leave the initiative on the ballot so the people can vote; if the courts determine [that] the people don't have that right, then this bill will go into effect so that we will still have the right to directly elect our own U.S. Senators. I can't see a good reason not to try, to the greatest extent possible, to allow the people to vote on this question, and that's what [Amendment 4] does.

There is history, by this body, that feeds into the public's fear that the ... legislature will not respect the will of the people through the initiative process. And I personally believe that happened last year. The people ... put together a minimum-wage initiative demanding a fair minimum wage that goes up with inflation. If that initiative passed, that would have been law for two years. The legislature knocked that initiative off the ballot by passing a bill, and then changed the bill the next year so that the minimum wage does not go up with inflation any more. I believe the legislature has thwarted the will of the voter in the past, and I believe [Amendment 4] makes sure, to the maximum extent possible, that the legislature will not thwart the will of the people again. So I'm going to support it.

REPRESENTATIVE SAMUELS again observed that it is important for the legislature to consider what will make good public policy 20, 40, 50 years in the future, and remarked that he would be voting against Amendment 4.

REPRESENTATIVE OGG mentioned that should something happen to one of Alaska's current U.S. Senators, HB 414 would enact the change sought by the those sponsoring the initiative sooner than could the initiative because the initiative won't be voted on before the next general election.

[Some discussion ensued regarding the bill's effective date and the time frame in which the Governor has to sign a bill, allow its passage without his/her signature, or veto it. It was later determined that bills without a specific effective date become effective 90 days after becoming law, and that the governor has 15 days during session and 20 during the interim in which to sign a bill, allow its passage without his/her signature, or veto it.]

CHAIR McGUIRE said she would not oppose an amendment to add a specific effective date to HB 414.

REPRESENTATIVE GARA indicated a preference for what Amendment 4 proposes as a possible effective date.

Number 2142

A roll call vote was taken. Representatives Gara and Gruenberg voted in favor of Amendment 4. Representatives Holm, Samuels,

Anderson, Ogg, and McGuire voted against it. Therefore, Amendment 4 failed by a vote of 2-5.

Number 2137

REPRESENTATIVE SAMUELS moved to report CSHB 414(STA), as amended, out of committee with individual recommendations and the accompanying fiscal note.

Number 2129

REPRESENTATIVE GARA objected for the purpose of discussion. He said that he has received e-mails indicating to him that some people believe that there are legislators who won't take this bill seriously. He noted that during the 22nd legislature, Representative Berkowitz had introduced legislation similar to HB 414 but it did not pass; instead, the law was changed to allow the current governor to select his own replacement. Therefore, the view of some, he relayed, is that HB 414 will simply be overturned shortly after passage. He said that if he had his choice, he would rather let the people pass this change through the initiative process. He then removed his objection.

Number 2048

CHAIR MCGUIRE asked whether there were any further objections to the motion to report CSHB 414(STA), as amended, out of committee. There being none, CSHB 414(JUD) was reported from the House Judiciary Standing Committee.

HB 367 - LICENSING SEX-ORIENTED BUSINESSES

Number 2003

CHAIR MCGUIRE announced that the final order of business would be HOUSE BILL NO. 367, "An Act relating to the licensing and regulation of sex-oriented businesses and sex-oriented business entertainers; relating to protection of the safety and health of and to education of young persons who perform in adult entertainment establishments; and providing for an effective date." [Before the committee was CSHB 367(L&C).]

CHAIR MCGUIRE noted that a forthcoming committee substitute (CS) will be addressing some of the concerns expressed during prior testimony.

Number 1930

KATHY HARTMAN, Owner, Fantasies on 5th Avenue ("Fantasies"), said she took exception to the term "sex-oriented business", stating that she runs an adult-oriented business, and it doesn't "deal sex." She asked whether HB 367 "constitutes an unconstitutional prior restraint." She then inquired as to whether HB 367 unconstitutionally censors adult entertainment businesses by limiting such businesses to [people] 21 and older. She asked if the state had conducted a "constitutionally-sufficient secondary-effects analysis," or conducted any secondary-effects studies at all. Next she asked whether HB 367 provides an unconstitutionally over-broad definition of sex-oriented businesses. Lastly, she questioned whether the fiscal note attached to HB 367 can support a total of six businesses in Alaska if [the legislature] eliminates 18-, 19-, and 20-year-olds [from patronizing them], and if those aged people are eliminated from the establishments, can the fiscal note support a challenge in the highest level court.

KATHY HARTMAN surmised that legislators have no secondary effects-studies to rely on, rather they only have testimony and hearsay so far. She commented that she has studies to refute any secondary effects that [legislators] think may exist. She said that secondary effects evidence relied on by supporters of HB 367 need to be, at a minimum, reasonably believed to be relevant to the state's alleged secondary effect problems. She highlighted that in Alameda Books v. City of Los Angeles, the Ninth Circuit Court of Appeals questioned an ordinance prohibiting businesses that enabled both the viewing and purchasing of adult videos because a secondary effects study that the City of Los Angeles relied upon wasn't germane. At this point, she opined, Alaska is at a crossroads with regard to permanent fund spending and budget issues, and so the state doesn't need any further cash outlay on unnecessary and redundant laws.

Number 1830

KATHY HARTMAN informed the committee that she has a license for premises where minors aren't allowed, and due to its proximity to a licensed establishment, she has a doorman and security. Furthermore, all identification is checked at the door, and "no one under 18 is allowed to enter." Moreover, she said, she has a long-standing policy not to hire anyone still attending high school, regardless of that individual's age; "we, as business owners, would not be adverse to a statute making it ... law not to hire any high school students." She informed the committee

that she wishes to add on to her existing building, but biased articles in the newspaper and innuendos have denigrated her in the community. Therefore, she opined, HB367 can be expected to "discourage and stymie" her from amassing the necessary interest, capital, and resources to continue with her plans.

KATHY HARTMAN said, "Banks and investors cannot be expected to line up to finance a business that may have the potential to be legislated out of business through shoddy, outdated studies and outdated ... information." In fact, the Alaska Industrial Development & Export Authority (AIEDA) has already backed away from a loan that was in the process. "Government actions are not allowed to potentially chill protected expression unless the action is sufficiently justified," she remarked, adding that the packet she provided to the committee illustrates that her business complies with all the issues brought forward. Therefore, if there is a business that isn't in compliance, she suggested using the statutes that are already in place to bring that business into compliance. "Do not ask for more laws that will be just as unenforceable as the current laws seem to be. A law is only as good as its enforcers," she said.

KATHY HARTMAN said that her business has a good reputation with all the agencies that she deals with. Furthermore, her establishment isn't on the restricted list for the military bases. "Please don't punish a large group of people for the actions of a few; ... we already comply with all laws on the books and would not be adverse to a statute stating unconditionally that no high school person can work in adult-oriented businesses," she concluded.

Number 1700

REPRESENTATIVE GARA asked Kathy Hartman whether her club pays its employees at least the minimum wage.

KATHY HARTMAN drew attention to the information she provided the committee, and relayed that it contains her business's W-3 transmittals, which totals almost \$500,000 in wages last year.

REPRESENTATIVE GARA asked whether there are clubs that charge employees for stage time and don't pay the minimum wage.

KATHY HARTMAN said she couldn't answer that, though there have been rumors. If such a situation is occurring, however, she said she questions why the Department of Labor & Workforce Development isn't addressing it.

REPRESENTATIVE GARA informed Kathy Hartman that [he and Chair McGuire] are thinking about including a provision that would require clubs to post the wage and hour rules so that dancers would know their rights. He asked if she would mind the aforementioned.

KATHY HARTMAN said that would be fine, adding that she passes out the "tip booklet" provided by the Internal Revenue Service (IRS).

Number 1621

REPRESENTATIVE GARA recalled testimony from a dancer at a club who stated that she has been propositioned by people who lead prostitution rings. This dancer further stated that she has been propositioned by folks who want her to sell drugs. He asked Kathy Hartman whether people are being propositioned like that in her club.

KATHY HARTMAN responded, "And at the mall at Sears, and at the mall at [JC] Penny's, and at the Diamond Mall, and at the Northway Mall - yes, that happens everywhere."

REPRESENTATIVE GARA submitted that he didn't believe such happens at most jobs where 18-year-olds work. He recalled testimony from an 18-year-old dancer in high school who stated that she worked six nights a week, thirteen hours a day. He asked Kathy Hartman whether she employs anyone in high school who work such hours.

KATHY HARTMAN answered that she doesn't employ anyone still in high school.

REPRESENTATIVE GARA further recalled testimony from a dancer who said that sometimes dancers will be touched or groped without consent, which results in security escorting the offending customer from the premises. He asked if that happens at Kathy Hartman's club.

KATHY HARTMAN replied that such is a possibility, but probably happens more often at Chilkoot Charlie's than at her establishment. She noted that she has security people for that. "What we're doing is dancing as a business, we're not there for the dating aspect of it like people are in regular bars," she said.

REPRESENTATIVE GARA recalled Kathy Hartman's assertion that it's unfair to refer to these businesses as sex-oriented business because they sell entertainment rather than sex. He mentioned that a forthcoming committee substitute (CS) will replace the term "sex-oriented business" with the term "adult-entertainment business." He also recalled that Kathy Hartman had said that some clubs will have to close if 18-, 19-, and 20-year-old patrons aren't allowed. Representative Gara stated that he was sympathetic to allowing patrons [age 18-20 years of age] and then just impose regulations with regard to the age of the entertainers who perform nude.

CHAIR McGUIRE said that her concern lies in her belief that those ages 18-[20] are still vulnerable, which she attributed as the reasoning behind making the drinking age 21. Many now recognize that brain development and maturity occurs later than was once thought. Chair McGuire commented that these clubs are obviously moneymakers, otherwise they would be only for those 21 years of age and older.

Number 1367

KATHY HARTMAN interjected that clubs don't need to be [only for those] 21 years of age and older to make money, adding, "We just need a place for our young people to go." "They're young adults and they need to have young adult entertainment," she said. She turned to the issue of eliminating all military men [from patronizing these establishments], and acknowledged that the military doesn't want to have [sex-oriented businesses] on the bases. However, she opined, the military doesn't have a problem with military personnel patronizing a club like Fantasies as long as there aren't any ensuing problems.

CHAIR McGUIRE highlighted that the lowest level of concern given by the courts is to entertainment. There is no First Amendment right to entertainment, she emphasized. Therefore, she believes that that part of the legislation could remain and be upheld. She said that based on the testimony from young women [in the sex-oriented businesses], the propensity for dangers [such as prostitution, drugs, and abuse] is heightened by working in [a sex-oriented] establishment.

KATHY HARTMAN argued that such is the case only in bad establishments. She [invited] legislators to come in to her establishment and get to know her and the dancers so they would realize that their assumptions are wrong.

Number 1273

CHAIR MCGUIRE asked if Kathy Hartman would have a problem with an hourly closure mandate by the state that would be commiserate with alcohol establishments. For example, those establishments that serve alcohol in Anchorage have a time period in which they close.

KATHY HARTMAN informed the committee that [Fantasies] closes one hour after the bars close, which provides people time to come and have a pop and coffee and sober up. She specified that she would object to an hourly closure mandate.

CHAIR MCGUIRE recalled testimony from dancers with regard to the "bar rush" that occurs after the bars close. She related her impression that in a place that doesn't serve alcohol, the bar rush could result in 50 percent of those in the establishment being intoxicated. The aforementioned is of concern because 18 year olds would be in the presence of others under the influence of alcohol.

KATHY HARTMAN interjected that if an individual is intoxicated, he or she shouldn't be on the road. Therefore, the bars should be responsible for those patrons, she charged.

CHAIR MCGUIRE specified that the problem is that [Fantasies, a club that doesn't sell alcohol] isn't regulated the way in which a club serving alcohol would be. Although [a club that doesn't serve alcohol] may have a policy reserving the right to refuse service to someone who is visibly intoxicated, that club has no legal obligation to do so.

KATHY HARTMAN disagreed. She explained that under the City of Anchorage's laws she is mandated by the Alcoholic Beverage Control Board (ABC Board) [to refuse to serve those who are visibly intoxicated] because of her establishment's proximity to an establishment with a liquor license.

CHAIR MCGUIRE indicated her understanding that Kathy Hartman was speaking of her establishment, which has a glass partition separating [two establishments]. Chair McGuire clarified that she is speaking of [establishments that aren't similarly situated]. She expressed the need for Kathy Hartman to keep in mind that [in making this legislation] she has looked at [these establishments] statewide. CHAIR McGuire recalled that Kathy Hartman testified that dancing is a business. With regard to expressive conduct, she opined that the Barnes v. Glen Theatre,

Inc. case clearly delineates that not all conduct is protected. Although there may be conduct that stems from one's First Amendment right, states still have the right to make time, place, and manner restrictions. Chair McGuire stated that she views Kathy Hartman's establishment as a business.

Number 1015

REPRESENTATIVE ANDERSON asked Kathy Hartman whether she believes there is a difference in maturity between an 18-year-old and a 20-year-old.

KATHY HARTMAN replied yes, adding that there is also a difference between an someone 18 years old and someone 40 years old.

REPRESENTATIVE ANDERSON said that the changes [made to the legislation] in the House Labor and Commerce Standing Committee were based purely on public policy. He asked Kathy Hartman whether she would agree that dancing is social and whether she would call it adult entertainment. Representative Anderson remarked that [HB 367] attempts to be [commiserate] with the age to drink and gamble, that being 21 years of age.

KATHY HARTMAN inquired, "What's the danger in nudity?"

REPRESENTATIVE ANDERSON noted that he hasn't seen any letter from either the Anchorage Cabaret Hotel Restaurant & Retailers Association (CHARR) or the Alaska CHARR in opposition to the changes incorporated in [CSHB 367(L&C)]. He requested that Kathy Hartman inform him if either organization actually endorses or opposes this legislation, but he urged her to be careful not to merely mention names [of members of CHARR] who are against the legislation. He then returned to Kathy Hartman's earlier comment that the propensity for drug use and prostitution is no different in [sex-oriented establishments] than in malls and other establishments. He asked her whether she really believes that.

KATHY HARTMAN clarified that she's merely said that "it can happen at the mall." She opined that [drug use and solicitation for prostitution] could occur more often in a club such as Chilkoot Charlie's. She likened dancing in [clubs that aren't strip clubs] to making love with one's clothes on. Furthermore, in the aforementioned clubs, not many clothes are worn and the clothes that the patrons do wear are very sexy. "And there is

no control at that point. In my business, I have control. It makes a big difference," she pointed out.

Number 0767

REPRESENTATIVE ANDERSON encouraged Kathy Hartman to review the title of [CSHB 367(L&C)]. He offered his understanding that the dancers [in sex-oriented establishments] strip naked and pose in contorted positions, which he interpreted as being sexually related.

KATHY HARTMAN inquired, "What is sex?" She informed the committee that the definition of "sex" is procreating.

REPRESENTATIVE ANDERSON commented that he didn't view the title as being "off." He then turned to the comparisons [between sex-oriented businesses] and [bars like] Chilkoote Charlie's, and pointed out that at Chilkoote Charlie's the patrons are 21 years of age and older as are the employees that may experience harassment or touching. However, under current law, a dancer in a club like Fantasies can be 18 years of age and in high school.

KATHY HARTMAN reiterated that she doesn't hire individuals who are still in high school. She further stated that since individuals [18 years of age and older] are adults, she questions why it should be any different than for a 21-year-old.

CHAIR McGUIRE asked if Kathy Hartman allows high school students that are patrons to enter her establishment.

KATHY HARTMAN replied yes.

Number 0693

REPRESENTATIVE GARA said he recognizes that Kathy Hartman isn't inviting leaders of prostitution rings and drug dealers to come into her establishment, and that it isn't Kathy Hartman's fault that such people are coming in. He recalled that in response to earlier questioning, Kathy Hartman had said that pimps and drug dealers probably do come in and proposition her employees. He inquired as to why she would say "probably."

KATHY HARTMAN answered that these people "probably" go into the grocery store and "probably" have to purchase furniture and everything else that a normal human would have to do.

REPRESENTATIVE GARA asked if Kathy Hartman was aware of any circumstances in which those who run prostitution businesses have entered [her establishment] and tried to proposition her employees.

KATHY HARTMAN said that she didn't know because she doesn't work at night when this [entertainment is offered at her establishment].

REPRESENTATIVE GARA asked if Kathy Hartman had heard of such from any of her employees.

KATHY HARTMAN responded that she has heard that such types enter the establishment, but she is well aware of these people who are supposedly doing this. She highlighted that she employs doormen to keep these types out of the establishment. However, if a new pimp enters her establishment, she can't do anything about it.

REPRESENTATIVE GARA expressed concern that 18-year-old women are in a position in which they could be exposed to propositions by pimps and drug dealers. He noted that being propositioned to become a prostitute or deal drugs is a crime, and asked whether, if the aforementioned happens, does Fantasies have a policy regarding being propositioned to do a crime.

KATHY HARTMAN clarified that she does have a policy in which the employee is supposed to immediately approach the waiter, bartender, or doorman and inform them of the situation. At that point, the patron is supposed to be [escorted out of the establishment].

REPRESENTATIVE GARA asked, "Shouldn't you also call ... law enforcement at that point because ..."

KATHY HARTMAN interjected to say that law enforcement isn't going to do anything. She emphasized that law enforcement hasn't done one thing about any of the things that people are saying is happening. "Law enforcement does not enforce the laws on the books, so why should they enforce any other laws that you're going to put on the books," she questioned. She identified one of the big problems is that [this legislation] will cost a lot and it still won't be enforced.

Number 0504

REPRESENTATIVE GARA surmised, then, that Fantasies has no policy in which individuals who solicit prostitution or drug dealing are reported to law enforcement.

KATHY HARTMAN remarked that the police know such types are out there, and pointed out that on the news recently the police said they knew where all the gambling joints were. Law enforcement doesn't do anything until someone "squawks" and puts them in a bad light on the news, she opined, and [turned to a May 1, 2003, article in the Anchorage Chronicle] that quotes then-Deputy Chief, Anchorage Police Department, Bill Miller, as follows: "We have more crimes in this city than we can investigate; people are worried about racial profiling, but we have more than enough work to keep us busy without going around looking for ways to steal people's civil rights."

REPRESENTATIVE GARA remarked that he would be more comfortable knowing that there was a policy at Fantasies to report the person who propositions a dancer for prostitution or drug dealing.

KATHY HARTMAN said that such could be done, but reiterated that it wouldn't do any good. She related that she has called the police when folks have brought their own alcohol into her establishment and was told there was nothing they could do about it, and so has dealt with problems internally.

Number 0416

CHAIR McGUIRE indicated agreement with the thought that there aren't enough [law enforcement personnel] to enforce and prosecute the ordinances that are already in existence. Therefore, she offered her belief that there will be benefits to keeping those age 18 to 20 "out of it." Although she acknowledged that the same situations could occur when an individual, at the age of 21, enters one of these clubs, she surmised that these individuals have a bit more experience. Chair McGuire recalled the testimony she heard from a dancer who has danced in every club in Alaska and Washington and who confirmed that solicitation to become a prostitute, or solicitation for drugs, or being groped inappropriately happens all the time. The aforementioned makes her case and enforcement could only help, she said.

KATHY HARTMAN asked if Chair McGuire ever thought that such a person brings those type actions on herself. She also asked if Chair McGuire has reviewed the newspaper with regard to the

drugs, prostitution, et cetera that goes on at the high school. She said that there is much more danger of such happening at the high school than at her club. The issues brought up by mothers from the Parent Teacher Association (PTA) should be directed to the high school where the problems exist, she opined, and informed the committee that she has had many people [apply for employment at her establishment] who have had drug problems in high school and she has helped them get clean and get back on the road to educating themselves.

CHAIR McGUIRE asked whether Kathy Hartman was supportive of keeping the drinking age at 21 or lowering it to 18.

KATHY HARTMAN said she hadn't considered that.

Number 0171

PAUL HARRIS, Director, Fairbanks Police Department (FPD), City of Fairbanks, announced his support for HB 367. [Sex-oriented businesses] are an industry that needs to be regulated, especially under-21 clubs. Currently, in Fairbanks, there is a club that stays open until 5:00 a.m., and therefore it has basically become an after-hours club. Mr. Harris informed the committee that he has documented cases of the sale of drugs, of solicitation for prostitution, and of intoxicated people on the premises. Mr. Harris concluded by reiterating his strong support for the bill, and said his hope is that a good set of regulations is developed.

CHAIR McGUIRE asked Mr. Harris if he has any evidence that the sale of drugs or the solicitation of prostitution occurs more often in [sex-oriented] establishments than it does at [fast food restaurants] or malls.

MR. HARRIS said that he didn't know that such things occur more often [in sex-oriented establishments]. He then noted his disagreement with Kathy Hartman, stating that these are sex-oriented businesses.

**TAPE 04-15, SIDE A**

Number 0001

[Recording begins mid speech.]

MR. HARRIS continued, "... drugs and the people that use drugs that go to ... those locations." Inside the Fairbanks city limits, a lot of military personnel visit these businesses and

do so after drinking and, thus, they are seeking additional after-hour action. Mr. Harris related that there have been several cases in which there has been the sale of drugs near the premises of these businesses. The difference between these businesses and a licensed liquor establishment is that there is no regulation that allows action against the license of one of these businesses. The license of these businesses never comes before the "council", and therefore there is no ability to protest against the license as would be the case for a liquor license. He pointed out that [the police] do a better job of policing outside the building of licensed liquor establishments.

Number 0104

CHAIR McGUIRE recalled that a lieutenant from the Anchorage Police Department was able to do a comparison of the number of calls made to one of the under-21 clubs in Anchorage. She recalled that there were 137 calls to those clubs, involving [the crimes of] kidnapping, assault, drug [use], and solicitation of prostitution. Chair McGuire requested that Mr. Harris provide the committee with the number of calls to one or both of the clubs in Fairbanks.

MR. HARRIS informed the committee that since the club opened on Fort Wainwright, fewer people have come from Fort Wainwright. Therefore, the calls and activity at [the establishment within the Fairbanks city limits] has been lower. Since January 1, the [police] have only been called to [the establishment within the Fairbanks city limits] four times, three of which were for charges of criminal trespass involving drunk individuals who entered the club and created a disturbance. He reviewed incidents that were reported from [the establishment within the Fairbanks city limits] in 2002, which included a welfare check, intoxicated subjects, drugs, loitering, fighting, and sexual assault. He relayed that the officers know that that establishment is a problem location and thus they continually walk through it. These officers are frustrated because there isn't much administrative action that can be taken. Mr. Harris expressed concern with a situation in which the manager isn't present at the establishment most of the time, and therefore the manager doesn't know how the business is actually being run, adding that this is of concern.

Number 0465

JOHNNY RAY KRUSE, Showboat II, informed the committee that each time an individual is found with alcohol or drugs, he or she is

asked to leave and the alcohol and/or drugs is taken. Furthermore, the incident is reported to the police. Mr. Kruse noted that no girls under the age of 18 that are in high school are hired. In response to Chair McGuire, Mr. Kruse specified that 18-year-olds are allowed in the club. He noted that most of the patrons to the club are military personnel.

CHAIR MCGUIRE inquired as to how the club uncovers that there alcohol or drugs are present.

MR. KRUSE explained that [staff] at the [entrance to the club] search the patrons. Furthermore, there is a large sign at the front entrance specifying that drugs and alcohol are prohibited. He said that if someone is soliciting prostitution from one of the employees of the club in the club, that individual is requested to leave. Furthermore, if an individual is a [known] pimp, he requests that that individual leave.

CHAIR MCGUIRE inquired as to how many pimps there are.

MR. KRUSE responded that he didn't know because he has only been [in Fairbanks] for two months. He noted that he was hired [from a club out of] Texas where the age limit is 18. Furthermore, in Texas, 18-year-olds and up are allowed to work in a "21 and up" business.

Number 0684

REPRESENTATIVE GARA inquired as to the number of occurrences during the two months that Mr. Kruse has worked with the establishment that pimps have tried to solicit people to work for them.

MR. KRUSE responded that there have been none. He specified that there have been two incidents in which people have propositioned employees of the club for prostitution. In each of those cases the customer was asked to leave. In order to clarify how he knows individuals are pimps, Mr. Kruse noted that sometimes employees of the club or a customer will inform him that an individual is a pimp. If an individual were to be identified as a pimp, he relayed that he would confront the individual and request that the individual leave, but the aforementioned hasn't happened [since he has been with the club]. Mr. Kruse maintained that he wasn't aware of pimps trying to make it into the club to proposition its employees. In response to Representative Gara's question regarding drugs,

Mr. Kruse specified that stopping drugs at the door has been highly [successful].

Number 0803

REGINA MANTEUFEL informed the committee that she came to Alaska at age 22 and has worked at three strip clubs in Anchorage, two in Fairbanks, and one in Soldotna. She stated that the clubs boldly violate wage codes, such as those stated in AS 23.10.065 and 8 AAC 15.907. The clubs also boldly violate the "tips law" found in AS 23.10.065 and 8 AAC 15.907. Ms. Manteufel referred to the case of Jeffcoat v. State, Department of Labor from which there was a ruling that stated [employees] cannot be told to work from 5:00 p.m. to 4:00 a.m. and classified [some individuals] as contract laborers or independent contractors. She said that the committee should review the contracts that the employees of these clubs are made to sign because they are illegal according to wage and hour codes. She referred to the "Crazy Horse v. Alaska Wage & Hour" case which addresses employees of these clubs being required to sell a certain number of drinks and making commissions off of drinks [sold]. Ms. Manteufel remarked that [owners of these clubs] operate under the assumption that if they can get away with it, they will and thus they take advantage of naive 18-year-olds.

MS. MANTEUFEL said she blamed the "Labor Board" and Grey Mitchell, Division of Standards and Safety, Department of Labor & Workforce Development, for not addressing these bold violations of labor laws. She predicted that the books wouldn't balance if there was an audit of the clubs in Alaska along with the employees being questioned separately. Therefore, she challenged the committee to request that the club owners prove they are paying minimum wage and not violating the tips law. Ms. Manteufel commented that not all the girls at these clubs are having sex, but estimated that at least four [per club] are prostituting. Therefore, she said she feels that every girl should be required to have an AIDS test, especially since there are plans for a gas line which will bring a lot of men [to the area].

MS. MANTEUFEL expressed concern for the single moms that are going to be impacted by raising the age limit to 21. She urged the state to reach out to these [single moms] to provide them a "next step." She informed the committee that she began changing when, during a welfare to work meeting, [someone] reached out to her. With regard to the issue of pimps, she mentioned that often these individuals stand out from other [patrons]. She

expressed concern with regard to 18-year-old girls dancing naked after 10:00 p.m. in these clubs. She mentioned the need to protect these girls.

Number 1273

CHAIR McGUIRE inquired as to Ms. Manteufel's opinion with regard to the reasons the state should restrict the way in which dancers between the age of 18 and 21 operate versus those 21 and older.

MS. MANTEUFEL said that she didn't want the young girls around blackout drunks. Furthermore, she highlighted the need to have other career training options, and noted that there are free workshops available across the state. She suggested that the legislation contain a "pimp registry" similar to the sex offender registry, which would make it easier for the doormen to do their job.

CHAIR McGUIRE asked if Ms. Manteufel felt she would have been better equipped to make better decisions if she had started dancing at age 21 rather than at age 18.

MS. MANTEUFEL recalled working at a bar mud wrestling at age 18 where she had a private card that allowed her entrance without having to show identification. The aforementioned is concerning with regard to private clubs. Ms. Manteufel opined that 18-year-old girls shouldn't be doing naked table dances. She reviewed her own turning point and the difficulty there is in reprogramming these girls.

CHAIR McGUIRE and REPRESENTATIVE GRUENBERG thanked Ms. Manteufel for her testimony.

MS. MANTEUFEL mentioned that she has been threatened [for speaking in these issues].

CHAIR McGUIRE noted that she shared similar concerns with regard to [threats]. She mentioned that Senator Fred Dyson has also spoken about the threats that he and his family have experienced when he was putting the ordinance in effect that requires dancers to be 18 years of age, as well as the Anchorage ordinance requiring dancers to be three feet from the patrons. In fact, she relayed that one individual has stopped testifying altogether due to threats, and the Anchorage Police Department is watching this closely.

MS. MANTEUFEL said that a lot of the concern from club owners stems centers around the potential cost of making this [legislation] work. She then pointed out that there is free AIDS testing statewide as well as workshops and career counseling available. Moreover, there are self-defense classes throughout the state.

REPRESENTATIVE GRUENBERG remarked that he didn't recall any witness before this legislative committee or any other committee ever saying that he or she had been threatened because of testimony before a committee. Therefore, he requested that any one who has been threatened to let the committee know because it's a serious issue and should be reviewed.

CHAIR McGUIRE announced that she and Representative Gara are keeping close tabs on it.

REPRESENTATIVE GRUENBERG said that if it isn't against the law to threaten a witness before a legislative committee, it ought to be.

Number 1680

DOUGLAS B. GRIFFIN, Director, Alcoholic Beverage Control Board (ABC Board), Department of Public Safety (DPS), said that in clubs with adult-aged entertainment that hold a liquor license, there is often reference made to the ABC Board's role. Although it isn't as extensive an enforcement effort as one would like, he said he believes it has provided a significant benefit. The fact that a club has a liquor license seems to provide more leverage in dealing with any problems. He mentioned that local governments provide another tool by playing a large role in regulating establishments that have liquor licenses.

CHAIR McGUIRE offered her recollection of Mr. Griffin's testimony in the House Labor and Commerce Standing Committee that if dancers under the age of 21 are allowed, or prostitution solicitations occur, or there are assaults against the women working, then the establishment's alcohol license will be pulled. She said that this what has led her to think that adult entertainment ought to occur only in places where people are already old enough to drink and where there is a liquor license.

REPRESENTATIVE GRUENBERG asked why the enforcement [of these establishments] wasn't placed with the ABC Board, opining that the ABC Board is accustomed to regulating establishments such as

these. He requested that Mr. Griffin and the bill sponsors think about the aforementioned.

MR. GRIFFIN said that to take on additional responsibilities to regulate an additional industry would take attention away from the ABC Board's primary focus, which is alcohol.

REPRESENTATIVE GRUENBERG noted his understanding, but stressed that someone has to do it. Therefore, he wanted to focus on the question of whether there is anyone who would be more qualified than [the ABC Board].

MR. GRIFFIN relayed his understanding that there may be some type of education or licensing mechanism for individuals, which is different than the ABC Board's current responsibility with regard to licensing businesses to hold liquor licenses. He opined that regulating individuals would be more appropriate for the Division of Occupational Licensing. Although the ABC Board has some familiarity with the education process through monitoring alcohol server training, training individuals and making them aware of other job opportunities would be a different aspect for the ABC Board. Mr. Griffin, therefore, declined taking on this responsibility, although he agreed it's important, and said he supports regulation in this area.

CHAIR MCGUIRE recalled Mr. Griffin's testimony last year pertaining to the Joint Committee on Legislative Budget and Audit report. At the time there was debate with regard to whether the ABC Board would continue to have investigatory powers. She recalled that it was shown that the ABC Board was finding instances of prostitution, gambling, et cetera in the course of its work.

Number 2035

RAYMOND STEMBA, speaking as a soldier with the U.S. Army, reminded the committee that soldiers are miles from home and for some it's the first time, particularly those age 18 [to 21]. Furthermore, soldiers aren't very knowledgeable with regard to places to go downtown. Moreover, many establishments are restricted to patrons who are age 21 and older due to alcohol being served on the premises. Local establishments for those age 18 [to 21] provide good entertainment in a controlled environment, he opined, and stated that if this legislation is passed, it will [for individuals between the age of 18 and 21] take away their constitutional right to freedom of expression, which grants the pursuit of life, liberty, and happiness.

CHAIR McGUIRE thanked Mr. Stemba for serving the country. She then reiterated that [individuals] don't have a First Amendment right to entertainment. The First Amendment comes into play for the dancer and that dancer's perceived right of expression through dance. Chair McGuire inquired as to the military's policy with regard to visiting adult-oriented clubs.

MR. STEMBA answered that he has never been informed that he wasn't allowed to visit such establishments, so long as the individual maintains a manner becoming of a U.S. soldier. In further response to Chair McGuire, Mr. Stemba related his belief that anyone 18 or older should be allowed to work at any place of business. He highlighted that at age 18 one can legally be his or her own guardian.

CHAIR McGUIRE asked Mr. Stemba whether he would choose not to go to an establishment where the women were 21 and older.

Number 2191

MR. STEMBA responded that he is 19 years old and would like to see someone his own age. In further response to Chair McGuire, Mr. Stemba said he didn't believe the state's drinking age should be lowered to age 18 because there are reasons to have the drinking age at 18. However, he pointed out that these establishments don't serve alcohol, which takes away the temptation for younger individuals to indulge in alcohol.

CHAIR McGUIRE asked Mr. Stemba whether he thinks there is any harm done to dancers between the age of 18 and 21.

MR. STEMBA replied no, specifying, "Everybody is allowed to make their own decisions and if they choose to go down the wrong road, it's their prerogative."

CHAIR McGUIRE pointed out, however, that the same argument could be used to say that someone between the age of 18 and 21 could make his or her own decision to drink.

MR. STEMBA agreed.

CHAIR McGUIRE explained that she was merely trying to point out that there are age-related restrictions in place for a variety of things including tobacco use, alcohol use, and gambling. She specified that the legislature is not saying that stripping

should be outlawed in Alaska, but rather that a reasonable age restriction may be in order.

REPRESENTATIVE GRUENBERG said that he wanted to obtain an answer regarding the military's policy about patronizing adult-oriented establishments.

REPRESENTATIVE GARA relayed his understanding that there isn't a prohibition [on patronizing adult-oriented establishments], though there is a prohibition on the sale of pornographic material on a military base.

Number 2330

ANDREE McLEOD said that although she is testifying for the rights of 18-, 19-, and 20-year-old adults, she stressed that in no way is she [supporting] allowing anyone still attending high school to work in an adult entertainment establishment. By using the language "sex-oriented" in the title and throughout HB 367, and by allowing the ensuing public discussion to include the use of the acronym SOB [sexually-oriented businesses], the makers of the legislation "are systemically structuring into this bill a lowering of the substantive nature of the public debate and enabling other dysfunctions by validating a public [perception] based on rumors, innuendos ..." [Tape ends mid-speech.]

**TAPE 04-15, SIDE B**

Number 2363

MS. McLEOD (indisc.). Ms. McLeod indicated that one establishment has been damaged, although it followed local laws and regulations. Therefore, it's absolutely necessary that the committee lead the direction of this legislation to a higher ground by amending HB 367 to refer to adult-entertainment businesses rather sex-oriented businesses. She mentioned the [alleged threats] that the PTA person initiating HB 367 says were made.

MS. McLEOD predicted that any law banning 18-, 19-, and 20-year-olds not attending high school from working in adult-entertainment establishments would be challenged all the way to the supreme court. Therefore, she requested that the fiscal note attached to this legislation include all costs related to a complete court challenge were this legislation to pass with the aforementioned ban in place. She remarked that surely Alaskans wouldn't want the legislature to pass a law that will

appropriate scarce public money and resources on a law that is constitutionally unstable and expensive. "We've got more important things to spend our money on than telling adults what they can and cannot do with their body," she said.

MS. McLEOD summarized by reiterating that it's fitting for this committee to "bring exactments to HB 367" by amending it to refer to "adult-entertainment" rather than "sex-oriented" and by attaching a fiscal note encompassing all cost related to a full court challenge. "It is just to pass out of this committee a bill highlighting laws already in existence that help protect citizens and regulate the industry but [that] does not abridge the constitutional rights of our Alaskan 18-, 19-, and 20-year-old adults not attending high school," she said. She concluded, "Legislators make laws and spend our money; good legislators make good laws and spend our money wisely."

Number 2268

CHAIR McGUIRE turned to the definition of "sex-oriented business" [on page 10, lines 6-9 of HB 367] and said that using that term wasn't meant to imply that anyone appearing nude or semi-nude was a prostitute. Furthermore, many states refer to such businesses as sex-oriented businesses while others refer to it as adult-oriented businesses. Chair McGuire noted that [a forthcoming] CS replaces the "sex-oriented" language with "adult-oriented" language because the sponsors don't want to detract from the purpose of the legislation.

MS. McLEOD relayed her belief that the language change will raise the level of discussion. She recalled earlier testimony that there are at least four prostitutes per club and indicated exasperation that 18-, 19-, and 20-year-olds making an honest dollar be so maligned. She said she would appreciate this legislation being raised to a level where verifiable evidence is submitted and the anecdotes and character assassinations are removed from the process.

CHAIR McGUIRE mentioned that the debate, in a variety of public sessions, has been open and honest, adding that people's concerns have been recognized and that [the committee] hasn't engaged in the character assassination of any individual. She explained that [the sponsors] have been presented with evidence regarding problems that have occurred, and feel that it is absolutely appropriate that this legislation appear. She also said that it's appropriate for Ms. McLeod to defend her opinion. With the exception of the fact that people have been threatened

for testifying, Chair McGuire said that she is pleased with the legislative process of HB 367.

MS. McLEOD asked if Chair McGuire and Representative Gara advised those individuals who discussed their victimization to go to the police and report these incidents.

CHAIR McGUIRE replied no, adding that she didn't think it was germane because the individuals had been in the industry years ago. Certainly, going back now and proving such instances of abuse would be very difficult.

REPRESENTATIVE GRUENBERG also noted that the sponsors are in the process of obtaining another CS that will no longer use the language, "sex-oriented".

Number 2052

REPRESENTATIVE GARA said that Ms. McLeod is correct about the terminology, and noted that the first time the issue was raised [the sponsors] agreed it would be more appropriate to refer to adult-oriented businesses. Representative Gara highlighted that none of these issues is clearly black and white. Without regulation of this [industry], some bad conduct is being left unregulated, but with regulation, some young folks who do well with these jobs will be regulated. He recalled hearing from some young entertainers who led exemplary lives.

MS. McLEOD opined that the cost of a constitutional challenge would guide where this issue will go, which is why she adamantly wanted the costs associated with a court challenge to accompany this legislation.

REPRESENTATIVE GARA, as an example, noted that some businesses in this state need to be regulated, and to that end, he has introduced legislation to increase some of the taxes on oil companies, and if the aforementioned legislation passes, he said he expected that those in the oil industry would challenge it. However, he stressed that he couldn't [shy away from] filing legislation just because a business will challenge it.

REPRESENTATIVE SAMUELS asked if Ms. McLeod believes the drinking age should be lowered to age 18.

MS. McLEOD responded that the drinking age isn't the issue before the committee. She clarified that she isn't requesting that the committee not pass this legislation because of a

constitutional challenge, but merely that there is need to include the cost of the constitutional challenge as part of the fiscal note.

REPRESENTATIVE SAMUELS pointed out that [society] puts in place protections for young people. The debate is whether young women [in adult-oriented businesses] should be protected from an atmosphere that may not be healthy for them. He said he felt that the question regarding the drinking age is pertinent because if one believes adulthood is age 18, then perhaps one would also be willing to lower other age limits to 18. However, he said he didn't [accept] the argument that there can't be different levels of responsibility [for those of different ages].

REPRESENTATIVE GRUENBERG turned to the fiscal note suggestion and specified that fiscal notes can't be done based on possible constitutional challenges that may or may not be filed.

MS. McLEOD asked if that is why there is a severability clause included.

REPRESENTATIVE GRUENBERG said he couldn't comment on that since he wasn't involved in drafting the legislation. He pointed out, though, that a fiscal note can't include [costs] that aren't fairly certain.

Number 1694

NANCY WEBB informed the committee that she is speaking from the vantage point of a parent who has raised three children, including one daughter who was a dancer at the Showboat Show [club] in Fairbanks. She said that as a result of her daughter's dancing, she sought to inform herself with regard to these establishments. As a member of the [Fairbanks North Star Borough Assembly], Ms. Webb said this issue reminded her of the debate over the community curfew, which she supported because she felt that there should be a community standard for those who aren't mature enough to make the best decisions when out after a certain hour.

MS. WEBB explained that she went to the club where her daughter worked and witnessed lap sitting, which is especially lucrative dancing. Ms. Webb related that there is quite a folklore regarding the money that can be made in this industry. The money is the lure because there aren't a lot of options for young women to earn much money if they aren't on the college

track or already skilled. Furthermore, it's cash in the hand. Ms. Webb related her observation that many of the dancers who are often single mothers were from out of state. She recalled that the clubs even paid for the women to come to Alaska, which seemed to create an indentured servant situation, and it was her understanding that the dancers did pay the establishment for the right to dance. She discussed how the income for dancers varies and so one [never knows exactly how much money he/she can count on]. She also noted that some of the dancers were homeless, appearing to have difficult family circumstances. Ms. Webb mentioned that there is camaraderie among the dancers as well as competition. The dancers are a mix of young and old, which she believes to be part of the problem along with a constantly changing staff.

Number 1299

MS. WEBB turned to the issue of drugs and relayed that she had no doubt that the establishments indirectly lead to drug use. She recalled her visit to the club and noted that she saw three military guys drinking inside their car before entering the club. The bouncer acknowledged that the [parking lots] can't really be patrolled, although the police do the best they can. She offered her belief that when trying to obtain money for drugs, young men tend to participate in violent acts whereas young women tend to participate in acts wherein they are victimized. If one is a drug addict, one will do a lot of things to obtain money and dancing offers cash in hand. Ms. Webb relayed that her daughter is a drug addict, and that through her daughter and Narcotics Anonymous she has met some of the older dancers who are also drug addicts.

MS. WEBB turned to the question of who is the clientele and who are the employees of these businesses. She relayed her observation that the employees generally start out as unemployed young women looking for work, young single mothers, drug addicts, young women with boyfriends who are addicts, or women on probation with restitution to pay. She remarked that the young woman who financed her entire college education from dancing is unusual. The clientele of these businesses are military men under age 21 and men in town for construction projects. She agreed with the earlier remark that with a gas line, [this industry will grow]. Therefore, this is a great time to put into place what this legislation proposes. Ms. Webb mentioned her support of the idea of nude dancing [only occurring] at an establishment that serves alcohol, because this means that everyone will be 21 years of age and there will be a

liquor license. In conclusion, she remarked that she is very concerned with those age 16-22.

REPRESENTATIVE GARA asked Ms. Webb whether she'd heard of there being propositions for prostitution at these clubs.

MS. WEBB said that it wasn't surprising to any of the [employees] to be propositioned.

Number 0834

SHAWN GRAVELLE, after noting that he is an employee of "Fantasies," informed the committee that when he turned 18 the first thing he had to do was sign up for selective service. He turned to the earlier question regarding [whether the legal age for drinking should be lowered] and remarked that [the various ages at which different things can be done] is age discrimination, which he said frustrated him. With regard to this matter, under one proposal, a dancer would have to be 21 years of age, while the patrons could be 18 years of age. He said that he wouldn't want someone still in high school to enter an adult-entertainment establishment. However, once that individual is 18 years old, it should be that individual's choice.

CHAIR McGUIRE asked Mr. Gravelle if he was referring to an individual entering one of these establishments as a patron, a dancer, or both.

MR. GRAVELLE said as a dancer because he/she might still be in school.

CHAIR McGUIRE inquired as to how one knows if a dancer is in school or not.

MR. GRAVELLE relayed that on the Fantasies application it asks if the applicant is in high school. However, he maintained that he didn't know how one would prove an individual is or is not in high school. In further response to Chair McGuire, Mr. Gravelle acknowledged that he was discriminating on the basis of age with regard to his earlier comment that those in high school shouldn't be allowed in these establishments.

CHAIR McGUIRE pointed out that when one talks about discrimination one must talk about similarly situated people. Therefore, if the age for dancers was 21, it would be that age for both male and female dancers. If the age restriction for

patrons was 21, then it would be 21 for both male and female patrons.

MR. GRAVELLE highlighted Chair McGuire's earlier remark that she didn't have a problem with 21-year-old dancers and 18-year-old patrons.

CHAIR MCGUIRE acknowledged her earlier remark, but added that she still wasn't sure on that point. She mentioned that there had been discussion between the sponsors regarding whether to link these businesses to an alcohol license and require everyone, patron and employee, to be 21 and older, or whether there should be a staggered age limit.

MR. GRAVELLE questioned where these 18-to 20-year-olds are going to go if these "rights" are taken from them. He relayed that the reason he received a minor consuming at age 19 was because he had nothing to do and thus he went to a house party. "You can only stay at home so long; ... I'm 18 years old, I'm an adult, and I should be able to go out and socialize with my friends," he said. In further response to Chair McGuire, Mr. Gravelle specified that he did believe 18-year-olds should be allowed to drink and smoke.

REPRESENTATIVE GARA remarked that Mr. Gravelle makes some good points on this difficult issue.

Number 0392

SARA CASTEEL informed the committee that she is 18 years old, and highlighted that the First Amendment of the U.S. Constitution guaranteed freedom to life, liberty, and the pursuit of happiness. For her, she said, the pursuit of happiness is her job as an entertainer and so it's a violation of her constitutional right to take that away. She pointed out the disparity between being able to be charged [as an adult] at age 18 while possibly not being able to dance in one of these establishments. She reiterated that she is an entertainer, adding that at her job she doesn't sell sex.

Number 0311

MARCI HALES informed the committee that she is 18 years old. She said, "If you're going to take away my freedom, take away my responsibility too." She relayed how offended she was when she first read this legislation as referring to sex-oriented businesses because, in her opinion, it's just entertainment.

She questioned how dancing entertainment could be linked to a liquor license. Ms. Hales referred to proposed Sec. 08.90.070 on page 5 of CSHB 367(L&C) and questioned why she should be required to provide any personal information to newspapers, radio stations, and television stations as specified in order to entertain.

REPRESENTATIVE GARA answered that he didn't believe that that provision is going to be kept in the bill. However, he explained that the provision was really in response to community councils which wanted to know if a new strip club is going to open in the neighborhood. Frankly, he said he didn't believe there would be any licensing requirements on any of the employees. Therefore, the new version of the legislation will probably not contain that language referring to the employees, although there will be a licensing requirement on the business itself.

**TAPE 04-16, SIDE A**

MS. McLEOD, in response to a member's comment, clarified that she is not a lobbyist.

Number 0057

JOHN FILLMEM (ph), Showboat Show Club ("Showboat"), informed the committee that he is a doorman and works security for the club. He recalled earlier testimony regarding the security in the parking lots of these establishments as well as in these establishments themselves, and specified that he is hired for that. He further specified that everyone entering the club is searched and patted down at the door before being allowed to enter. Furthermore, it's [security's] job to inspect the bathrooms and the parking lots on an hourly basis to ensure that [illegal] activities of concern aren't happening on the premises.

MR. FILLMEM also informed the committee that he is less than 21 years of age. He opined that [this legislation] takes away his right to make a living. He related that he attended college at the University of Minnesota and then returned to Alaska and [his job at] Showboat has allowed him the opportunity to obtain a loan to purchase a new vehicle. Mr. Fillmem pointed out that he is old enough to obtain a federal-funded loan for his educational expenses, to vote for the leader of this country, to go to war for this country. "But I'm not allowed to enjoy the things that should be offered to me as an adult," he said.

MR. FILLMEM noted that he took offense to the earlier comments that these establishments sell sex because there is no sex in [Showboat] whatsoever. He specified that none of the dancers or entertainers, "or anybody else for that matter," have any sexual contact with any of the clientele of the club. Furthermore, there are no relationships between employees because that is strictly against company policy. If the dancers were to have a relationship with clientele outside the club, the dancers wouldn't make any money, he opined. Men patronize the club to have good entertainment, and the [dancers] don't have contact with the patrons outside the club. Such contact would jeopardize [the dancer's] safety and, furthermore, the man wouldn't patronize the club.

REPRESENTATIVE GARA asked if the entertainers share tips with Mr. Fillmem, as security personnel.

MR. FILLMEM opined that that isn't the issue. In response to further questions, Mr. Fillmem stated that he is paid a salary. He specified that receiving tips from the entertainers isn't a requirement. However, he noted that on certain occasions he has received tips from the entertainers because the entertainers appreciate what [the security personnel] do for the club. It's the job of the [security personnel] to ensure that [the entertainers] aren't exposed to "black out drunks" and drunks from the so-called "bar rush."

REPRESENTATIVE GARA asked whether the entertainers have to pay the owner of Showboat to work there, such as for stage time.

MR. FILLMEM opined that that isn't the issue before the committee. In further response, he specified that he doesn't know what other people are paid, and therefore he said he couldn't comment. He said that he hasn't had discussions with other employees regarding pay.

Number 0464

CAROL HARTMAN, Owner, Fantasies on 5th Avenue ("Fantasies"), commented that almost everything she had wanted to address has already been discussed. She provided the committee with copies of her establishment's notice to employees regarding the establishment's insurance and workers' compensation insurance. She recalled references to short-term staff and businesses moving around and changing names. She informed the committee that two-and-a-half years was spent looking for a location that

would comply with zoning ordinance laws. Such a location was found on 5th Avenue, which is where the establishment has been for almost five-and-a-half years, and her intention, she said, is to expand. She pointed out that the committee packet should include a letter from Safe Harbour Inn that states that Fantasies is an excellent neighbor with which there have been no problems.

CAROL HARTMAN informed the committee that she has written a letter to Walt Monegan, Police Chief, Anchorage Police Department (APD), requesting crime statistics on five businesses, both those businesses that serve alcohol and those that don't, plus the Millennium Club, as well as five bars [that serve] alcohol. She indicated that she had requested a comparison study. She offered her belief that the aforementioned statistics and study will reveal that over the 15 years that Fantasies has been in business, it has had very little contact with the police. In fact, usually the contact with the police has been in situations in which the club has initiated the contact.

CAROL HARTMAN, in response to Chair McGuire, specified that she had requested a [comparison study] of her club [Fantasies on 5th Avenue], Teasers, the New (ph), the Showboat, the Bush Company, Crazy Horse, PJ's, Chilkoot Charlie's, Rum Runners, Al's Place, 515, The Avenue Bar, and The Millennium Club.

Number 0702

CAROL HARTMAN recalled testimony regarding an employee [of a sex-oriented] business working 13 hours, and stated that she didn't know of any club that is even open for 13 hours. Certainly Fantasies isn't open 13 hours. She remarked that her business could almost run itself. She informed the committee that she has employed the same two waitresses for 13-14 years. She further informed the committee that her three sons work at the business in various positions. She relayed that one of her employees came to her when she was on probation, was an alcoholic, and had drug problems. This young woman was attempting to straighten her life out, but no one would hire her. She said she was given a job at Fantasies, however, and has since gotten off drugs and alcohol, and has moved on to work in the airlines industry.

CAROL HARTMAN turned to the issue of pimps soliciting prostitution and said that she has seen pimps come in. She remarked that these people who prey on young people know where

they are allowed and where they aren't. These people know they aren't allowed in Fantasies.

CHAIR McGUIRE echoed Representative Gara's earlier comment recognizing that Kathy and Carol Hartman run a very reputable establishment. The concern is that without any regulation at all, other [less reputable establishments] have the potential to bring down the reputation of the Hartmans' club. Chair McGuire expressed the need to put in place something that sets a general standard. Where the line is drawn has been the subject of debate. The fact that the Hartman's club doesn't allow high school students to be dancers is admirable and something that no one else has offered to do. She highlighted Ms. Manteufel's testimony that when a high school student watches a classmate dance, and then talks about it, it becomes a distraction.

CAROL HARTMAN interjected that this is a business that operates at night. Therefore, high school students can't work at night and try to attend school.

Number 1042

CHAIR McGUIRE said she would appreciate the Hartmans, over the next few weeks, thinking about the policies that they have in place and things that would raise the entire industry to a standard that keeps people safe. Chair McGuire acknowledged that all the problems can't be legislated away, but she reiterated her concern with regard to young people being exposed to some of the things that occur in some of these clubs before achieving the ability to resist those temptations. She commented that young people have had less life experiences. The aforementioned is why the age for alcohol has been raised to 21.

CHAIR McGUIRE indicated that although she and Representative Gara are open to suggestions, they both believe that there should be regulation. "This bill won't leave without some licensure requirement of clubs 18 to 21," she stated, and expressed interest in hearing from [the Hartmans] with regard to other [provisions] that are included in the legislation. She then expressed concern with situations in which people who have been drinking are then going to a [sex-oriented] establishment after the establishment serving alcohol closes. Some have referred to this situation as similar to what has been termed an "after hours" club. She expressed interest in [Carol Hartman's] thoughts.

CAROL HARTMAN explained that Fantasies and an establishment that serves alcohol have been separated by a wall for approximately five years. Therefore, Fantasies is regulated by the ABC Board, and this results in the establishment being very cautious with regard to checking identification. However, 10 years prior the Hartman's establishment was located on International Airport Road in a strip mall. That establishment allowed those age 18 [and older to patronize] the club and it didn't serve alcohol. She recalled that the club on International Airport Road never had a doorman or security guard and never had a problem. She recalled that only one time had she called the police to remove someone who was obnoxious and drunk. However, now there are security guards who patrol the parking lot, the bar, and inside the establishment, and who are watching the door. Carol Hartman opined that people are more cautious with regard to drinking because of current laws.

Number 1286

CHAIR McGUIRE acknowledged the argument that there should be places where young people can go where alcohol isn't served. However, the presence and consumption of alcohol is recognized as being serious enough that the legal age to consume has been raised to 21 years of age. The alcohol industry is more regulated than any other, she remarked, and stated her firm belief in the drinking age being 21 as well as in the regulation of [the alcohol industry]. She expressed concern with individuals who have been consuming alcohol entering a [sex-oriented] business, even if it's only two drinks, because there is a "whole culture that comes with that." She opined that current law with regard to alcohol consumption was established so that those under age 21 would not drink. Therefore, she has a concern with young people witnessing others under the influence of alcohol in [establishments] that don't have the same protections in place [as would an establishment that serves alcohol]. Chair McGuire offered her belief that being regulated [as an alcohol establishment], as is the case with Fantasies, provides a better result.

CAROL HARTMAN opined that the 21-and-over alcohol clubs aren't any more regulated than her establishment. In fact, some may be less regulated than her establishment since [Fantasies] imposes its own regulations. Furthermore, she relayed that she didn't believe the ABC Board has time [to regulate sex-oriented businesses]. "And I don't think they go out and regulate them or check them or do anything any more than they do [with] anybody else in town," she remarked.

CHAIR McGUIRE recalled testimony given in the House Labor and Commerce Standing Committee from Douglas Griffin, Director, ABC Board, who'd relayed that [the ABC Board] had actually pulled the license of [a sex-oriented business].

Number 1410

REPRESENTATIVE GARA surmised that Carol Hartman sometimes employs folks who work at other clubs.

CAROL HARTMAN replied yes. In further response to Representative Gara, she agreed that it would probably be fair to say that other clubs in town don't follow the same rules that she imposes at her clubs. She remarked that she believes the standards at her establishment are probably a lot higher than most.

REPRESENTATIVE GARA asked if it would be fair to say that Carol Hartman has heard from those employees coming from other clubs that they have worked at clubs where they weren't paid wages and had to pay for stage time.

CAROL HARTMAN recalled that there was testimony regarding that, and regarding independent contractors in other clubs. She further recalled that an action on those issues was being pursued by an attorney. She clarified that her establishment has never [worked] with independent contractors because she understood it to be illegal.

REPRESENTATIVE GARA asked Carol Hartman whether she has had conversations with employees who have come from other establishments where they have been treated as an independent contractor.

CAROL HARTMAN estimated that she has had [conversations with] maybe two to three such [employees].

REPRESENTATIVE GARA asked Carol Hartman whether she has an opinion with regard to whether her establishment provides a safer environment than other establishments in town in terms of the dancers not being groped or touched.

CAROL HARTMAN answered that she feels her establishment provides as much safety as it can. She relayed how the club is laid out and how various staff can see the entire club and how there are signs posted in the club that specifies that there is to be no

touching. Those who attempt to touch the dancers are [escorted from the establishment].

Number 1589

REPRESENTATIVE GARA explained that one of the provisions of the legislation is to ensure that the club is designed such that it is all open with no private booths. He asked if such would bother Carol Hartman.

[The response was inaudible.]

REPRESENTATIVE GARA asked Carol Hartman whether she would have a problem with a provision specifying that an adult-oriented business must have an entrance that isn't shared with other businesses. He relayed that concerns have been expressed regarding adult-oriented businesses that share an entrance with a building in which minor child may enter.

CAROL HARTMAN replied no. She surmised that if the aforementioned is happening it must be due to an establishment being grandfathered in before the 1,000-foot zoning law. She stressed that [new sex-oriented establishments] can't even be within a 1,000 feet of a residence. She asked if [passage of such a provision] could change those situations that are grandfathered in.

CHAIR McGUIRE interjected that state law supercedes [local ordinances].

CAROL HARTMAN related her belief that it's a good idea [to have a 1,000-foot restriction].

REPRESENTATIVE GRUENBERG expressed interest in the question of who is going to enforce this proposal.

CHAIR McGUIRE related that she has thought about creating a separate position that is solely devoted to [these issues].

CAROL HARTMAN turned to the earlier mentioned matter of those who have been threatened and harassed [after speaking on this matter]. She announced, "I just want to guarantee you that it has nothing to do with us."

REPRESENTATIVE GRUENBERG remarked that his comments on the threats and harassment weren't just related to this legislation.

In the legislative and judicial systems, one must be very protective of those participating in the process.

CHAIR MCGUIRE announced [that after hearing from the remaining witnesses today] she would close public testimony.

Number 1781

AMBER REINHARDT, Showboat Show Club, began her testimony by explaining that dancing is a form of art like ballet. She highlighted that ballet dancers wear tight clothing that one can almost see through. She reiterated that dancing is an art, and said that there are no drugs or sex [at her job]. In fact, those who engage in sex [with clientele] are fired and fined. She informed the committee that she is dancing because she is in debt. She characterized it as wrong to take away her rights as an adult to do what she pleases.

Number 1913

CHRIS HUNT, after noting that he was an employee of Showboat Show Club, explained how he came to be the disc jockey. Although he was in high school, he didn't mention that status because he didn't believe it mattered. Furthermore, he said that he wasn't asked. Upon mentioning his schooling status at the meeting held [in Anchorage], he was fired. Mr. Hunt expressed the desire to protect the rights of those in a similar situation. He informed the committee that he was trying to obtain high school credits for work experience. He said that his high school counselor knew about his job and thought it was fine. Mr. Hunt pointed out that he is an adult, and he believes that his position in high school shouldn't dictate the parameters of his adulthood. Furthermore, he opined that he should have a right to hold a job and finish his education so long as the two didn't interfere with each other. He concluded by saying that he feels singled out.

REPRESENTATIVE GRUENBERG encouraged Mr. Hunt to obtain his high school diploma.

Number 2010

JACQUELINE PICKENS noted that she is providing [the committee] with an application for an under-21 club so that the committee can see that the application does ask if the applicant is attending high school. In response to Chair McGuire, Ms. Pickens clarified that the application was from "Showboat."

Number 2049

TROY LASNETSKE informed the committee that he is a 27-year-old patron of [sex-oriented establishments] who is a federal employee and who is also a member of a respected union. He noted that he has worked for federal contractors and is enlisted in the military. He opined that the real question is: when does a person become an adult with the responsibilities [that come with it]. He offered his understanding that at the age of 18 one is legally responsible and able to enter into a binding contract, be tried and charged as an adult, enlist in the military, obtain a credit card, and sign a lease for property or an automobile. Therefore, he said he questions why [the sponsors] feel it necessary to restrict the liberties of an 18-year-old.

MR. LASNETSKE recalled Officer Harris's testimony regarding the list of calls for an under-21 establishment. Mr. Lasnetske pointed out that Officer Harris never mentioned a list of calls to a similar establishment for those age 21 and over. Furthermore, he offered his understanding that most of the calls were initiated by the business. With regard to requiring [sex-oriented] establishments to close because of a possibility of an already intoxicated individual entering the premises, he asked if Denny's would be asked to close for the same reason. "You're asking them to ... restrict their liberties and the way they do business based on what somebody else might do," he pointed out, and opined that such is inappropriate. He said he questions how one would be expected to run a successful business if there are restrictions based on hearsay. Mr. Lasnetske concluded by stating his disagreement with the proposed age restriction.

Number 2241

DOUG HARTMAN, Showboat Show Club, informed the committee that when, at age 18, he signed up for selective service, he then realized that he was an adult. He relayed that later on he joined the military. While a serving in the U.S. Army, he became a member of the multi-national peacekeeping force, and served in the Gulf War in 1991. He offered his belief that most [sex-oriented businesses] support self-regulation. He thanked [the committee] for making these establishments aware of certain improvements that could be implemented and which, in some instances, have already been implemented. Mr. Hartman said, "We feel that no one should be allowed to work in a cabaret that is still a student at high school, regardless of age." He

expressed the need to keep adult entertainment in an adult atmosphere.

MR. HARTMAN informed the committee that employees are now making discrimination complaints [because] every employee must sign a new revised application form that specifically asks if the individual is attending high school. If the individual is found to have falsified any of the information, that individual may be terminated. Furthermore, a copy of the employee's identification will be kept on file, he relayed.

MR. HARTMAN echoed earlier testimony with regard to referring to these establishments as sex-oriented businesses. He stressed, "We are not in the business of sex, and that's not what we're about." Although he applauded the committee's [agreement] to change the "sex-oriented business" language to "adult-oriented business", he indicated that the damage had already been done. He turned to the issue of constitutional rights, civil rights, and women's rights, which he said were all at stake. "How dare you step on somebody's right to work when they're 18; it's ... about choice ...," he charged.

**TAPE 04-16, SIDE B**

Number 2389

MR. HARTMAN turned to the issue of alcohol, and opined that personally he wished that alcohol didn't exist. However, he noted that it wasn't his decision. As an adult, one should be able to consume alcohol at age 18, he opined.

MR. HARTMAN remarked that women entertainers shouldn't be singled out in this industry and be required to obtain "career counseling and self-defense training, and be finger printed. The latter, he opined, makes these women feel like criminals. He suggested that the requirements seem to attempt to make [the women] not available [to work in these establishments], adding that the allegations of actions that are of concern have been brought by other people, not employees of these establishments.

MR. HARTMAN emphasized that dancers don't fornicate with customers because, if they do, they are terminated or arrested. He acknowledged that there have been problems and that dancers have been arrested. He emphasized the need for more regulators and more police officers to help. Mr. Hartman also informed the committee that voter registration at the club is being organized. With regard to patting down customers at the door, he opined that it's not necessary because no drugs or alcohol

are tolerated within the club. In conclusion, he said that although [Showboat] has both male and female entertainers, it seems that female entertainers have been targeted by this bill.

Number 2168

JESSICA COX, Showboat Show Club, informed the committee that she is a 20-year-old mother employed by Showboat, and said she questions not allowing those between 18-20 to work in or [be a patron] of an adult-entertainment business, especially since one is considered to be an adult at age 18. The businesses that should be shut down are sex-oriented massage parlors and prostitution houses; if HB 367 is passed, she opined, then adult bookstores, massage parlors, prostitution houses, and after-hours businesses should be shut down. She pointed out, however, that shutting down [sex-oriented] businesses won't stop pimps or drug dealers from finding prey. For example, she informed the committee that "we" were approached [about purchasing drugs] outside "this" building today. Ms. Cox asked if the legislation allows staff such as waitresses and waiters, "bar backs," and doormen to be between 18 and 20 years of age.

CHAIR McGUIRE clarified that it depends upon which version the committee reports out. She explained that if the version linking the club to an alcohol license is reported out, then those 18 to 20 years old wouldn't be able to work at the club. However, the version [requiring] strippers to be 21 years of age and older doesn't mention bar backs or disc jockeys.

MS. COX informed the committee that she is a waitress, and therefore if the one version becomes law she will be out of a job. She inquired as to when individuals do mature, asking if a 22-year-old trying to obtain his/her high school diploma could go into an [adult] entertainment business.

CHAIR McGUIRE said that Ms. Cox should ask Mr. Hartman that question because he could explain the policy that the [Showboat] has now incorporated. Chair McGuire surmised that the concern is that most individuals attending high school who would be in a club like these would be 18 years of age rather than 22, adding that there are problems that arise from a lack of sleep and from harassment when high school students see a fellow classmate dancing at one of these clubs.

MS. COX inquired as to what constitutes adulthood.

CHAIR McGUIRE said it varies, and offered her belief that the legal age for drinking or gambling should be 21 while the legal age for tobacco use should be 19. With regard to the question of whether to execute an 18-year-old, Chair McGuire stated that she didn't agree with that concept. She pointed out that throughout the nation, there is precedent for setting different levels of "adulthood" with regard to engaging in specific activities.

REPRESENTATIVE GRUENBERG, in further response to Ms. Cox, noted that generally under Alaska State law, one reaches adulthood at age 18 save for the already mentioned exceptions.

CHAIR McGUIRE announced that public testimony is closed.

[HB 367 was held over.]

#### **ADJOURNMENT**

Number 1953

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 5:49 p.m.