

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

May 5, 2003

3:30 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Bob Lynn, Vice Chair
Representative Nancy Dahlstrom
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 64(JUD)

"An Act relating to a requirement that certain consumer reporting agencies provide individuals with certain information without charge."

- WAIVED FROM COMMITTEE

HOUSE BILL NO. 270

"An Act relating to the licensure of pharmacists; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 247

"An Act repealing statutes pertaining to the Alaska Science and Technology Foundation and transferring money in the foundation's endowment; repealing statutes relating to the BIDCO assistance program; repealing statutes pertaining to the international trade and business endowment and transferring money in the international trade and business endowment; transferring oversight administration of outstanding Alaska Science and Technology Foundation loans and grants to the Alaska Industrial Development and Export Authority; establishing an Alaska BIDCO assistance program to be administered by the Department of Community and Economic Development; making conforming amendments; and providing for an effective date."

- MOVED HB 247 OUT OF COMMITTEE

HOUSE BILL NO. 272

"An Act relating to motor vehicle dealers."

- HEARD AND HELD

PREVIOUS ACTION

BILL: SB 64

SHORT TITLE: CREDIT INFORMATION

SPONSOR(S): SENATOR(S) FRENCH

Jrn-Date	Jrn-Page		Action
02/07/03	0133	(S)	READ THE FIRST TIME - REFERRALS
02/07/03	0133	(S)	L&C, JUD
02/19/03	0228	(S)	COSPONSOR(S): DAVIS
02/20/03		(S)	L&C AT 1:30 PM BELTZ 211
02/20/03		(S)	Heard & Held
02/20/03		(S)	MINUTE(L&C)
04/03/03		(S)	L&C AT 1:30 PM BELTZ 211
04/03/03		(S)	Moved Out of Committee
04/03/03		(S)	MINUTE(L&C)
04/03/03		(S)	MINUTE(L&C)
04/04/03	0686	(S)	L&C RPT 2DP 1NR 1AM
04/04/03	0686	(S)	NR: BUNDE; DP: DAVIS, FRENCH;
04/04/03	0686	(S)	AM: SEEKINS
04/04/03	0686	(S)	FN1: ZERO(CED)
04/04/03	0686	(S)	FN2: ZERO(LAW)
04/16/03		(S)	JUD AT 1:00 PM BELTZ 211
04/16/03		(S)	Moved CSSB 64(JUD) Out of Committee -- Permanent Time Change --
04/16/03		(S)	MINUTE(JUD)
04/17/03	0890	(S)	JUD RPT CS 5DP NEW TITLE
04/17/03	0890	(S)	DP: SEEKINS, ELLIS, FRENCH, THERRIAULT, OGAN
04/17/03	0890	(S)	FN1: ZERO(CED)
04/17/03	0891	(S)	FN2: ZERO(LAW)
04/22/03	0920	(S)	RULES TO CALENDAR 4/22/2003
04/22/03	0920	(S)	READ THE SECOND TIME
04/22/03	0921	(S)	JUD CS ADOPTED UNAN CONSENT
04/22/03	0921	(S)	COSPONSOR(S): STEVENS B, THERRIAULT,
04/22/03	0921	(S)	TAYLOR, COWDERY, GUESS,

04/22/03	0921	(S)	DYSON, STEVENS G, LINCOLN, WAGONER, SEEKINS
04/22/03	0921	(S)	OLSON
04/22/03	0921	(S)	ADVANCED TO THIRD READING UNAN CONSENT
04/22/03	0921	(S)	READ THE THIRD TIME CSSB 64(JUD)
04/22/03	0921	(S)	PASSED Y20 N-
04/22/03	0923	(S)	TRANSMITTED TO (H)
04/22/03	0923	(S)	VERSION: CSSB 64(JUD)
04/23/03	1065	(H)	READ THE FIRST TIME - REFERRALS
04/23/03	1065	(H)	L&C, JUD
05/05/03	1327	(H)	L&C REFERRAL WAIVED
05/05/03	1327	(H)	REFERRED TO JUDICIARY
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 270

SHORT TITLE:PHARMACIST LICENSING

SPONSOR(S): REPRESENTATIVE(S)DAHLSTROM

Jrn-Date	Jrn-Page		Action
04/15/03	0986	(H)	READ THE FIRST TIME - REFERRALS
04/15/03	0986	(H)	HES, L&C
04/24/03		(H)	HES AT 3:00 PM CAPITOL 106
04/24/03		(H)	Moved Out of Committee MINUTE(HES)
04/25/03	1124	(H)	HES RPT 4DP
04/25/03	1124	(H)	DP: CISSNA, SEATON, WOLF, WILSON
04/25/03	1124	(H)	FN1: ZERO(CED)
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 247

SHORT TITLE:SCIENCE & TECH FOUNDATION/BIDCO/INT.TRADE

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
04/04/03	0784	(H)	READ THE FIRST TIME - REFERRALS
04/04/03	0784	(H)	L&C, FIN
04/04/03	0785	(H)	FN1: (CED)
04/04/03	0785	(H)	GOVERNOR'S TRANSMITTAL LETTER
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 272

SHORT TITLE:MOTOR VEHICLE DEALERS

SPONSOR(S): REPRESENTATIVE(S)WEYHRAUCH

Jrn-Date	Jrn-Page		Action
04/16/03	1009	(H)	READ THE FIRST TIME - REFERRALS
04/16/03	1009	(H)	L&C, STA
04/28/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/28/03		(H)	Scheduled But Not Heard
04/30/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/30/03		(H)	Scheduled But Not Heard
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Scheduled But Not Heard -- Recessed to Mon. 5/5 8:00 AM
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE NANCY DAHLSTROM

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 270.

CINDY AUDET, Pharmacist

Juneau, Alaska

POSITION STATEMENT: Announced her support of the passage of HB 270.

EDGAR BLATCHFORD, Commissioner

Department of Community & Economic Development

Juneau, Alaska

POSITION STATEMENT: On behalf of the governor, presented HB 247, sponsored by the House Rules Standing Committee by request of the governor.

TOM LAWSON, Director

Division of Administrative Services

Department of Community & Economic Development

Juneau, Alaska

POSITION STATEMENT: During discussion of HB 247, answered questions.

LINDA SYLVESTER, Staff

to Representative Bruce Weyhrauch

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 272 on behalf of the sponsor,
Representative Weyhrauch.

LORRIE URBAN

North American Automobile and Trade Association

POSITION STATEMENT: Testified that Section 1 of HB 272 should
be deleted.

DARRELL FRIESS

Budget Car and Truck Sales

Budget Rent-A-Car

POSITION STATEMENT: Testified that Section 1 of HB 272 should
be deleted.

JIM ARPINO, General Manager

Affordable Used Cars

Fairbanks, Alaska

POSITION STATEMENT: Expressed concern with HB 272.

DAN SHERMAN

Variety Motors

Fairbanks, Alaska

POSITION STATEMENT: Testified on HB 272.

PHIL HAWS

Phil Haws Auto Outlet

Anchorage, Alaska

POSITION STATEMENT: Testified on HB 272.

JOHN LYBERGER

Lyberger's Car & Truck Sales

Anchorage, Alaska

POSITION STATEMENT: Related the need to delete Section 1 of HB
272.

ACTION NARRATIVE

TAPE 03-47, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing
Committee meeting to order at 3:30 p.m. Representatives
Anderson, Dahlstrom, Gatto, Crawford, and Guttenberg were
present at the call to order. Representative Lynn and Rokeberg
arrived as the meeting was in progress.

SB 64 - CREDIT INFORMATION

CHAIR ANDERSON began by addressing CS FOR SENATE BILL NO. 64(JUD), "An Act relating to a requirement that certain consumer reporting agencies provide individuals with certain information without charge." He noted that SB 64 is substantively similar to Representative Crawford's legislation, and therefore all committee members have signed a letter requesting that SB 64 be waived from the House Labor and Commerce Standing Committee.

HB 270 - PHARMACIST LICENSING

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 270, "An Act relating to the licensure of pharmacists; and providing for an effective date."

Number 0100

REPRESENTATIVE NANCY DAHLSTROM, Alaska State Legislature, spoke as the sponsor of HB 270. She explained that basically, the Board of Pharmacy can't deny a license to an applicant with a "checkered background," such as an individual with a felony, drug conviction, or drug abuse problem. However, public safety and the pharmacy profession are both compromised in this situation. This right to deny a license was unintentionally left out of the statute when originally drafted. This legislation provides a fix by allowing the Board of Pharmacy to deny a license to an applicant with a criminal background. She informed the committee that all members involved agree with the proposed changes to this statute. She noted that the committee packet should include letters of support from the Board of Pharmacy and the Alaska Pharmaceutical Association. She concluded by urging the committee's support for HB 270.

Number 0226

CINDY AUDET, Pharmacist, announced her support of the passage of HB 270. Adding the proposed language would provide the authority the Board of Pharmacy needs to protect public safety when reviewing applications.

REPRESENTATIVE CRAWFORD asked if there was actually a case that precipitated this legislation.

MS. AUDET related her belief that there was a case, although she specified that she isn't a member of the Board of Pharmacy. She related her understanding that there was confusion with regard to an application that the Board of Pharmacy felt needed to have

had more questions. It wasn't clear when more questions would automatically occur and when they wouldn't.

Number 0323

REPRESENTATIVE DAHLSTROM agreed that there was an issue that could have potentially become a serious problem, and therefore this legislation is preventative.

REPRESENTATIVE GATTO asked if, prior to the passage of HB 270, an individual could've used the application procedure fraudulently to obtain a license, although the board may have felt the individual was fraudulent.

MS. AUDET answered that the way the language read it could've happened as described above, although she didn't believe such a situation has occurred.

REPRESENTATIVE GATTO asked if a situation ever arose in which the Board of Pharmacy felt an applicant was fraudulent and didn't give the applicant a license, and the matter was challenged.

MS. AUDET related her belief that it was the other way around. She recalled that someone pointed out that the board was being more judicious [with the review process] than the statute allowed.

Number 0402

REPRESENTATIVE GUTTENBERG asked, "Do you know if there are any people that would become covered under ... this change of the bill, that people would be looking to ... have their license removed?"

MS. AUDET pointed out that the application language for licensed pharmacists has always existed. Therefore, she said she didn't know of any threat this proposal would create for any of the current licensees. In response to Representative Gatto, Ms. Audet related her belief that the existing regulations have existed 10 years or less because the last revision was in the early 1990s.

Number 0476

MARGARET SODEN, President, Board of Pharmacy, informed the committee that a couple of years ago there was an applicant

seeking licensure in Alaska and the board wanted to deny that license. However, the board discovered that it didn't really have the authority to do so. The board was lucky because the applicant had lied on the application and thus the board didn't license the applicant based on false application. After the aforementioned case, the process to add the language "deny a license" to the board's statute began. She confirmed that in the 1990s the statutes were written and that authority wasn't given to the board. Therefore, the Board of Pharmacy wants this language added. Currently, there could be a situation in which a felon or an individual with a revoked license in another state would have to be granted a license as long as the applicant was truthful on his/her application. In such a situation, the board would have to take the applicant's license through a disciplinary sanction process. Ms. Soden pointed out that the Board of Pharmacy is only requesting that it be able to deny a license of an applicant based on the same criteria under which the board can sanction a license. She highlighted that the prolonged period for disciplinary sanctions is problematic because a person could continue to have a license and practice while the disciplinary sanctions are in place.

CHAIR ANDERSON, upon determining no one else wished to testify, announced that public testimony was closed.

REPRESENTATIVE CRAWFORD related his understanding that Ms. Soden was saying that the legislation would speed up the process of taking a license.

REPRESENTATIVE DAHLSTROM said she understood that the language would allow the board to move more succinctly through the process of reviewing an application and informing the applicant that he/she doesn't qualify for a license in this state. However, under the [current environment] the applicant could be hired or have their own business and a lengthy process [to take the license] would ensue.

CHAIR ANDERSON directed attention to page 1, line 4, and explained that the language allows the denial of a license at the onset of the application.

REPRESENTATIVE GUTTENBERG, in relation to the language on page 1, line 4, asked if the applicant would receive a hearing.

CHAIR ANDERSON reiterated that the new language specifies that the board can initially deny an applicant or can do so after a hearing, which is the existing law. Therefore, allowing the

denial at the beginning of the application process would expedite the process.

MS. SODEN noted her agreement.

Number 0875

REPRESENTATIVE CRAWFORD asked if those applicants who are denied during the initial stages would have an opportunity to appeal.

MS. SODEN replied yes, and clarified that the applicant would have to show why he/she should be granted a license. She noted that the applicant would have the ability to appeal.

REPRESENTATIVE GUTTENBERG asked if the statute that discusses having a hearing refers to an "applicant" as compared to an individual already holding a license.

MS. SODEN answered that under the disciplinary regulations, the board can sanction the license of an individual who has already registered in this state. She clarified that the Board of Pharmacy already has the ability to sanction an individual's existing license, but doesn't have the ability to deny an applicant. Therefore, the applicant would have to receive his/her license as long as there was no falsification of the application.

REPRESENTATIVE GUTTENBERG turned to the statutes for a hearing and asked if there is reference to an individual who has already had his/her license denied or is it just those who already have a license that the board wants to address.

REPRESENTATIVE CRAWFORD asked if the language "applicant" would have to be added to the hearing statute as well.

MS. SODEN said that the Division of Occupational Licensing regulation specialists actually developed the language. Therefore, she assumed that the board has the authority [to provide a hearing process for an applicant] without changing any other language.

Number 1064

REPRESENTATIVE GUTTENBERG commented that he didn't want to pass this and find out that an individual who has had his/her application denied has no rights for a hearing because of the

lack of a statutory reference for an applicant to have a hearing.

CHAIR ANDERSON said that he guessed that there is always recourse, the ability to appeal, and the possibility for a hearing.

Number 1144

ROBIN PHILLIPS, Staff to Representative Dahlstrom, Alaska State Legislature, clarified that the applicant will have an appeal process while the licensee has a hearing process.

REPRESENTATIVE GUTTENBERG said that he wanted to be sure that this legislation isn't [inadvertently] denying the ability of an applicant to have a hearing. He asked if Ms. Phillips actually reviewed [the statutes] to know that it's consistent.

MS. PHILLIPS replied no. However, she explained that an applicant wouldn't have a hearing because an applicant isn't a licensee. However, the applicant can appeal the process. In a sense, the aforementioned is the applicant's hearing.

REPRESENTATIVE GUTTENBERG asked if the appeal process statutes refer to an applicant.

MS. SODEN related her belief that this was all covered under the Administrative Procedures [Act (APA)] for licensing regardless of the profession.

CHAIR ANDERSON related his belief that this is appealable.

MS. SODEN pointed out that under the Board of Pharmacy's section, AS 08.80.050 specifies that the board shall comply with the APA. In further response to Chair Anderson, Ms. Soden explained that a graduate from pharmacological school would have to have a certain number of hours internship, be a graduate from an accredited college, answer background questions, and submit a license application. The Board of Pharmacy would review the applicant's license information. Occasionally, there are times when an individual has something "bad" in his/her background and currently the board can't deny the individual the license if this applicant told the truth. The individual would receive the license and then the board would take action against the individual. Until the denial happens, the individual could be working.

REPRESENTATIVE CRAWFORD surmised that everyone agrees that to deny a license to an applicant is appropriate. However, the question is whether the term "applicant" needs to be added to the statute referring to the appeal process.

CHAIR ANDERSON announced that HB 270 would be held over in order to determine whether the statutes are consistent with the language being proposed.

REPRESENTATIVE ROKEBERG requested having someone from the Division of Occupational Licensing testify as to why this legislation is necessary because sometimes there is boilerplate licensing procedures [in division statutes that] allow for denial.

REPRESENTATIVE DAHLSTROM agreed to research these questions.

[HB 270 was held over.]

HB 247 - SCIENCE & TECH FOUNDATION/BIDCO/INT.TRADE

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 247, "An Act repealing statutes pertaining to the Alaska Science and Technology Foundation and transferring money in the foundation's endowment; repealing statutes relating to the BIDCO assistance program; repealing statutes pertaining to the international trade and business endowment and transferring money in the international trade and business endowment; transferring oversight administration of outstanding Alaska Science and Technology Foundation loans and grants to the Alaska Industrial Development and Export Authority; establishing an Alaska BIDCO assistance program to be administered by the Department of Community and Economic Development; making conforming amendments; and providing for an effective date."

Number 1630

EDGAR BLATCHFORD, Commissioner, Department of Community & Economic Development (DCED), paraphrased from his written testimony, which read:

The bill repeals the existing AS 37.17 statutes that create the Alaska Science and Technology Foundation (ASTF) and programs it administers: foundation grants and the BIDCO (Business and Industrial Development Corporation) assistance program.

The statute creating the international trade and business endowment in the ASTF is also repealed.

Subject to appropriation, the bill provides for the transfer to the general fund of the money remaining in the ASTF [foundation] fund and in the international trade and business endowment.

Oversight administration of existing ASTF grants and BIDCO assistance program loans and other financial assistance would be transferred to the Alaska Industrial [Development] and Export Authority (AIDEA).

A new BIDCO assistance program, very similar to the repealed BIDCO assistance program is established and administered by the Department of Community and Economic Development (DCED).

ASTF was created in 1988 with an endowment of more than \$100 million to support grants for technology projects, knowledge projects, small business innovation research bridging grants and direct grants to teachers. Through its endowment, ASTF has generated about \$126 million in income for distribution. Between 1988 and 2002, one half the endowment income, \$63 million, has been appropriated and spent for "non-ASTF purposes":

- \$35 million for University of Alaska operations, Alaska Aerospace Development Corporation (AADC) operations, and Trade and Development operations;
- \$17 million was appropriated to the state general fund; and
- \$11 million was used to match federal funding for construction of AADC's \$39 million Kodiak Launch Complex.

The remaining \$63 million was distributed by the ASTF board over the last 14 years:

- \$25 million in technology project grants;
- \$10 million in knowledge project grants;
- \$8 million to partners;
- \$5 million to wiring K-12 schools and science museums or internet connectivity;
- \$2 million in K-12 science and math teacher grants;
- Contributions to the principal of the ASTF endowment (less than \$500,000); and

\$13 million in ASTF operations.

In mid-March the Legislature passed and the Governor signed into law a supplemental appropriation reducing ASTF FY 2003 operations to amounts spent and obligated to date and included intent language to ASTF to wind down operations by May 15, 2003. The Governor's FY04 budget provided no funding for ASTF.

Thank you for the opportunity to speak before you today and I urge you to support passage of HB 247.

REPRESENTATIVE ROKEBERG asked if HB 247 needs to pass in order for the governor to access the corpus of ASTF's endowment.

COMMISSIONER BLATCHFORD replied no.

Number 1775

TOM LAWSON, Director, Division of Administrative Services, Department of Community & Economic Development, in response to Representative Rokeberg, specified that the BIDCO program has been used once. There is one licensed BIDCO in the state, the Alaska Growth Capital Program, which will remain in business.

REPRESENTATIVE GATTO turned to the fiscal notes and mentioned that there would've been funds appropriated for the current year as well as funds that some of these ventures would've earned in future years. Therefore, he asked if the future funds that will never be realized are accounted for in the fiscal notes.

MR. LAWSON explained that this legislation sets up AIDEA to monitor any payments that are due to the state. One of the categories of grants is the technology grant, for which there were up to \$25 million of grants that were granted. All of the technology grants have a repayment clause, and therefore the purpose of the staff in AIDEA would be to ensure that the state receives its repayments. However, Mr. Lawson specified that there will be no new grant funds issued at the end of FY03.

REPRESENTATIVE GATTO restated his question as follows: "Is the fiscal note understated in that there is additional funding, beyond the current, that we will see as a revenue source; and therefore, the fiscal note is saying look at how much money we get by eliminating the program and yet there's even more that I don't know if it's been accounted for."

MR. LAWSON answered that [the department] isn't sure how much money will return because part of that relates to the health of the company that received the grant. The state felt it was important to have someone monitor the repayments in order to ensure that when repayments are due, they are made.

REPRESENTATIVE GATTO asked if this revenue stream [of repayments] was accounted for in the fiscal note.

MR. LAWSON responded that the fiscal note doesn't account for the amount of revenue that's coming in [through repayments]. The fiscal note specifies that around \$300,000 has come in thus far and more is anticipated.

Number 1954

REPRESENTATIVE GUTTENBERG related his understanding that the governor's intent is to take ASTF and the funds in it and HB 247 establishes a vehicle to monitor the funds and the returns. He inquired as to why ASTF is being eliminated from statute [rather than just not funding it].

COMMISSIONER BLATCHFORD said that "we" didn't consider that question. He related his belief that this legislation appears to be much cleaner.

REPRESENTATIVE CRAWFORD remarked that he didn't understand eliminating endowments. He pointed out that ASTF has generated over \$126 million in income over the \$100 million endowment that was used to establish the program. He likened this to the plantations where he grew up; people would do various things with the earnings from the plantation but would never sell the land. This [legislation] is like selling the land, he said. He questioned why one wouldn't place the funds in the endowment somewhere else to generate income.

Number 2058

COMMISSIONER BLATCHFORD replied, "The state needs the money." After reviewing all the projects in depth, it was decided that ASTF wasn't following the intent behind its creation. Therefore, it was decided it should wind down. Commissioner Blatchford indicated his disagreement with Representative Crawford's analogy.

REPRESENTATIVE GATTO asked if it was Commissioner Blatchford's decision to dissolve ASTF.

COMMISSIONER BLATCHFORD answered that it was a collective decision.

REPRESENTATIVE GATTO specified that he was trying to determine whether Commissioner Blatchford was directed to do this or was actually a part of it.

CHAIR ANDERSON interjected that it's difficult for a commissioner to say that he isn't part of such a decision because the governor is his boss. Conversely, the commissioner's have to counsel the governor.

Number 2115

REPRESENTATIVE CRAWFORD acknowledged the need for money, but highlighted that ASTF has generated income that far exceeds the original investment. Therefore, he said he didn't understand why [the entire endowment] would be taken in one year and thus in the coming years the state wouldn't have [the revenue] on which to fall back. If there is dissatisfaction with regard to where the earnings are going, that can be changed, he pointed out.

REPRESENTATIVE GUTTENBERG noted that over the past couple of days some in the legislature had the opportunity to listen to Red Boucher discuss e-commerce. According to Mr. Boucher, science and technology could be a vehicle for e-commerce. Therefore, he asked if there is any other vehicle to e-commerce and economic development besides this legislative process.

COMMISSIONER BLATCHFORD pointed out that within DECD is the Division of Community Advocacy, which he views as an incubator for entrepreneurial ideas. This division works closely with all of the communities in Alaska and many suggestions regarding how to work with them to seize opportunities in the private and public sector are obtained. Furthermore, the University of Alaska system [provides] greater opportunities in this arena.

Number 2355

REPRESENTATIVE CRAWFORD asked if Commissioner Blatchford is saying that DCED would be able to provide matching funds similar to those that made the Kodiak launch facility possible.

COMMISSIONER BLATCHFORD said that the department has to be creative in working with local communities and the federal government.

TAPE 03-47, SIDE B

COMMISSIONER BLATCHFORD continued by saying that the department would work closely with the almost two dozen agencies that have impact on funding Alaskan projects. He indicated that in a situation in which there was an opportunity for projects with requirements for a match, the state would work closely with the unorganized boroughs to try to match it.

Number 2340

CHAIR ANDERSON, upon determining that no one else wished to testify, closed the public testimony.

REPRESENTATIVE GUTTENBERG reiterated his concern with regard to eliminating ASTF from the statute completely because often times there is the need for a vehicle.

REPRESENTATIVE DAHLSTROM moved to report HB 247 out of committee with individual recommendations and the accompanying zero fiscal note.

REPRESENTATIVE CRAWFORD objected and said, "I do believe that even if we were to strip the money away from this, it doesn't do us any good to do away with the vehicle if we are able to use it after we get our fiscal policy in order."

REPRESENTATIVE GUTTENBERG echoed his earlier comments regarding his concern with completely eliminating ASTF from the statutes.

REPRESENTATIVE ROKEBERG commented, "It's a shame we have this bill; it was a great idea for all the reasons of the technology, but it didn't work."

REPRESENTATIVE CRAWFORD suggested that then ASTF should be fixed so that it does work because he believes some of the things ASTF did were good things.

Number 2144

A roll call vote was taken. Representatives Lynn, Dahlstrom, Gatto, and Rokeberg voted in favor of reporting HB 247 from committee. Representatives Guttenberg, Crawford, and Anderson

voted against it. Therefore, HB 247 was reported out of the House Labor and Commerce Standing Committee by a vote of 4-3.

The committee took an at-ease from 4:25 p.m. to 4:26 p.m.

HB 272 - MOTOR VEHICLE DEALERS

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 272, "An Act relating to motor vehicle dealers."

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, informed the committee that HB 272 is a follow-up to HB 182, omnibus legislation [offered in the Twenty-Second Alaska State Legislature] that dealt with the relationship between manufacturers of motor vehicles and dealers and franchise owners in the state. Section 2 of HB 272 addresses semantic changes to HB 182. However, Section 1 is more controversial as it relates to SB 105, which passed in 1993. Senate Bill 105 addressed consumer protection with regard to how brokers of automobiles are allowed to operate in the state. Two provisions in the statute [created by SB 105] are unenforceable, as Ed Sniffen, Assistant Attorney General, will testify.

MS. SYLVESTER explained that basically Section 1 will prohibit a dealer from selling or offering to sell a motor vehicle as new unless the vehicle retains the manufacturer's certificate of origin. Furthermore, Section 1 prohibits the dealer from selling or offering to sell the vehicle as a current model motor vehicle unless the following two conditions are met: the dealer has a current sales and service agreement with the manufacturer or the vehicle is a current model used vehicle received as a trade-in in the normal course of business.

MS. SYLVESTER noted that Mr. Sniffen drafted HB 272. She invited the committee to assist in fixing Section 1(b)(2) because it inadvertently impacts a common practice of rental car companies. She explained that rental car companies commonly purchase new vehicles and turn them over in under a year. Therefore, HB 272 would unintentionally put those rental car companies out of business. The legislation is intended to address vehicles intended for the Canadian market, whether manufactured in the U.S. or Canada. There is a practice of these vehicles being purchased in Canada and being sold in the U.S. Because of the economic conditions in Canada, the manufacturers sell these cars in Canada at a discounted price.

The manufacturers have tried to stem the tide of these vehicles entering the U.S., but they have achieved mixed success.

Number 1854

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department of Law, offered to listen to testimony and return for questions.

Number 1826

LORRIE URBAN, North American Automobile and Trade Association, informed the committee that she represents independent importers and exporters of motor vehicles, specifically Canadian motor vehicles to the American market. Mr. Urban requested that Section 1 be removed from HB 272 because it is harmful to the interests of the consumer. Furthermore, it is an illegal trade restriction that exposes the state government to liability under the North American Free Trade Agreement. Section 1 was crafted solely for the benefit of franchised dealers who are trying to prevent competition from independent dealers who import and sell Canadian automobiles. These automobiles meet the U.S. safety and emission standards, the only difference is the price. She pointed out that independent dealers are able to sell these automobiles to consumers for more competitive prices. Laws prohibiting the sale of current model year vehicles by nonfranchise independent dealers is ridiculous, she said. Furthermore, such action provides no benefit to commerce in Alaska. Ms. Urban said she didn't believe it's appropriate for the government to eliminate businesses and companies that are able to supply identical goods at lower prices. She estimated that there are approximately 351 auto dealers and 31 franchise dealers in this state. Many of these dealers, including franchise dealers, do sell Canadian automobiles to consumers.

MS. URBAN acknowledged that recently, automobile manufacturers have increased their interest in preventing imports of Canadian automobiles into the U.S. However, this is legal trade; the [U.S.] Department of Transportation licenses registered importers to import Canadian automobiles into the U.S. Basically, the only modification necessary to an automobile being imported from Canada is the odometer. Although [automobile manufacturers] are trying to prevent the sale of Canadian automobiles to U.S. consumers, regulatory constraints have been eliminated to allow these automobiles to enter the U.S. from independent dealers. Ms. Urban noted that currently

there is a multi-billion dollar lawsuit against manufacturers and dealers which alleges that many manufacturers are colluding with each other to stop competition from independents who sell Canadian automobiles. Furthermore, the Federal Trade Commission (FTC) is investigating the anti-trust implications for consumers and the committee packet should include documents that she provided on this matter. Ms. Urban expressed the need to remove Section 1 from HB 272 in order to eliminate the state from being part of the scheme.

Number 1577

DARRELL FRIESS, Budget Car and Truck Sales, Budget Rent-A-Car, announced his agreement with Ms. Urban in regard to the need to remove Section 1 entirely. As a whole tourism and local consumers will be harmed if they aren't able to purchase vehicles at lower prices that are offered through local rental car companies liquidating through local auctions when those automobiles are purchased by independent dealers.

Number 1508

JIM ARPINO, General Manager, Affordable Used Cars, said that HB 272, as currently written, isn't good for the customer. The issue of rental car sales is one of the reasons why the legislation isn't good for the customer as already addressed. The normal course of the rental car business is not only to take automobiles in on trade but also to purchase vehicles through various avenues, such as auctions. Mr. Arpino stated that HB 272 would essentially give franchise dealers a monopoly on those vehicles for approximately 15-16 months. The aforementioned doesn't help fair trade in the state. He predicted that most likely there will be discussion [from those supporting HB 272] regarding the laws in the State of Washington.

Number 1351

DAN SHERMAN, Variety Motors, pointed out that both franchise dealers and used [car dealers] can purchase at these auctions. "So, it really doesn't effect anyone unfairly," he said. Mr. Sherman informed the committee that when this legislation was drafted no independent automobile dealers were contacted.

PHIL HAWS, Phil Haws Auto Outlet, informed the committee that he worked in new automobile care [dealers] for years and it seems like that group is trying to corner the market. Mr. Haws said

that he didn't understand [this legislation] because a used car is a used car.

Number 1219

JOHN LYBERGER, Lyberger's Car & Truck Sales, began by informing the committee that he sells a number of Canadian vehicles and, as was noted earlier, there is almost no difference between Canadian and American vehicles. Mr. Lyberger related his belief that the rebates, hold backs, advertising, and 0 percent interest deals allow all dealers to compete. He expressed concerns with regard to Section 1 and suggested that it be deleted.

CHAIR ANDERSON announced that HB 272 would be held over.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:50 p.m.