

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

January 21, 2004

3:16 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**

HOUSE BILL NO. 227

"An Act increasing the jurisdictional limit for small claims and for magistrates from \$7,500 to \$10,000; increasing the jurisdictional limit of district courts in certain civil cases from \$50,000 to \$75,000; and amending Rule 11(a)(4), Alaska District Court Rules of Civil Procedure, relating to service of process for small claims."

- MOVED HB 227 OUT OF COMMITTEE

HOUSE BILL NO. 351

"An Act relating to the devices, including carbon monoxide detection devices, required in dwellings; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 326

"An Act related to tax credits for taxes related to certain business losses."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 227

SHORT TITLE: DISTRICT COURTS & SMALL CLAIMS

REPRESENTATIVE(S) :

03/28/03 (H) READ THE FIRST TIME - REFERRALS  
03/28/03 (H) L&C, JUD  
05/14/03 (H) L&C AT 3:15 PM CAPITOL 17  
05/14/03 (H) Scheduled But Not Heard  
05/16/03 (H) L&C AT 3:15 PM CAPITOL 17  
05/16/03 (H) -- Meeting Canceled --  
05/17/03 (H) L&C AT 12:00 AM CAPITOL 17  
05/17/03 (H) -- Meeting Postponed to Sun. 5/18/03 --  
01/21/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 351

SHORT TITLE: CARBON MONOXIDE DETECTION DEVICES

REPRESENTATIVE(S): GATTO, GRUENBERG

01/12/04 (H) PREFILE RELEASED 1/2/04  
01/12/04 (H) READ THE FIRST TIME - REFERRALS  
01/12/04 (H) L&C, STA  
01/21/04 (H) L&C AT 3:15 PM CAPITOL 17

**WITNESS REGISTER**

REPRESENTATIVE MAX GRUENBERG

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the House Judiciary  
Standing Committee, sponsor of HB 227, and testified as one of  
the sponsors of HB 351.

DOUG WOOLIVER, Administrative Attorney  
Alaska Court System  
Juneau, Alaska

POSITION STATEMENT: Testified that the court does not oppose HB  
227 but wishes to remain neutral.

SKIP SCHIEL

Cambridge, Massachusetts

POSITION STATEMENT: Testified in favor of HB 351.

JOHN BITNEY, Lobbyist  
for Alaska State Home Builders Association  
Palmer, Alaska

POSITION STATEMENT: Testified on behalf of his organization's  
unanimous support of HB 351.

TOM KEMPTON, Deputy Chief

Anchorage Fire Department  
Municipality of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Spoke in strong support of HB 351.

**ACTION NARRATIVE**

**TAPE 04-1, SIDE A**

Number 0001

**CHAIR TOM ANDERSON** called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Anderson, Gatto, Dahlstrom, Lynn, Rokeberg, Crawford, and Guttenberg were present at the call to order.

CHAIR ANDERSON said he believed that HB 326 was canceled by the sponsor, Representative Fate.

HB 227-DISTRICT COURTS & SMALL CLAIMS

Number 0066

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 227, "An Act increasing the jurisdictional limit for small claims and for magistrates from \$7,500 to \$10,000; increasing the jurisdictional limit of district courts in certain civil cases from \$50,000 to \$75,000; and amending Rule 11(a)(4), Alaska District Court Rules of Civil Procedure, relating to service of process for small claims."

Number 0066

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, presented HB 227 on behalf of the House Judiciary Standing Committee, sponsor. He testified:

It contains four parts. The first part simply increases the district court's jurisdiction from \$50,000 to \$75,000. We're only talking about civil jurisdiction here. Section 2 increases small claims jurisdiction from \$7,500 to \$10,000. Section 3 tracks Section 2 with respect to magistrates' jurisdiction because they hear small claims, increasing it from \$7,500 to \$10,000. Section 4 amends a district court civil rule that presently states you cannot sue an out-of-state defendant in small claims court. This will allow you to do so when the cause of action is based on a debt or a contract of personal injury or

property damage that was incurred while the defendant was physically present in Alaska.

Let me explain very briefly the reason for all four of these. As the state has matured and become more sophisticated, the quality of the district court has increased and we have people now sitting on that court who are very good and are highly qualified to hear larger cases. In addition is the effect of inflation, which has made money worth less than it was, and we have, over the years, consistently increased the civil jurisdiction of the district court. I think it may have been \$25,000 initially. It was quite small, and now it's certainly up to \$50,000, and we would like to see it go up to \$75,000, at least, at a minimum.

Number 0142

REPRESENTATIVE GRUENBERG noted that this bill applies to civil cases. In Section 1, everywhere in AS 22.15.030(a) that the figure of \$50,000 is mentioned, the figure will be increased to \$75,000. He said he believes procedure, timing, and ability to get a case to court are faster in district court than in civil court, where they have complex, larger cases, felonies, family law cases, and other types of cases. He described small claims court as streamlined, and the court of the people. He said many people go to small claims court without attorneys and they don't have to follow the strict rules of evidence. He reiterated that HB 227 keeps pace with inflation and increases the civil jurisdiction to \$10,000 from \$7,500. Section 3 allows magistrates to hear cases up to \$10,000. He noted that in a complex case the magistrate can defer to a district court judge. He stressed that HB 227 gives magistrates in Alaska the authority to hear these cases.

REPRESENTATIVE GRUENBERG pointed out with respect to Section 4, the amendment to the civil rule in small claims [court], that often defendants in a contract or small case of personal injury leave Alaska. These defendants may be transferred or are an out-of-state corporation, but the actions that led to the case occurred here in Alaska. He described a corporation with an office here in Alaska, a "nexus here in the state," that was present in Alaska when it entered into a contract and subsequently became a defendant. Usually, people going to court on a small case would have to hire a lawyer to go to court with them because the defendant was a large corporation and located out-of-state. He said he feels this is difficult for people.

He observed that the fifth section of HB 227 clarifies that this bill amends a rule and consequently requires a two-thirds vote for Section 4 to become effective.

Number 0459

REPRESENTATIVE LYNN asked how Alaska compares to other states in terms of the dollar limits; would HB 227 bring Alaska into line with other states?

REPRESENTATIVE GRUENBERG replied that he couldn't answer this question because he had not done a survey. He thinks it would. He clarified that the last time the limits of jurisdiction were raised for district court was in 1990, from \$35,000 to \$50,000, and the limit was raised as recently as 1997 for small claims court, from \$5,000 to \$7,500.

Number 0586

REPRESENTATIVE DAHLSTROM asked for clarification on the procedure followed when there is no response from a person out of state; who from the court or an Alaskan agency is responsible for following up?

REPRESENTATIVE GRUENBERG informed Representative Dahlstrom

The process of filing a lawsuit involves filing a complaint and paying the filing fee. Then you serve the defendant. There are various ways under Civil Rule 4 that governs this. There's no difference for small claims service of summons, except that for small claims you're not allowed to serve by what's called "publication." "Publication" is if you can't find somebody, then you can use public notice. [In the case of small claims] you either do it by personal service, you hire a process server or you hire a peace officer, and they serve it to you or at your current address or they give it to an adult or somebody of reasonable age or they can serve it to you on the street or anyplace.

Second is by certified mail, return receipt requested, addressed to addressee only, so they have to sign and then you get a green card back. They have 20 days, generally, to respond, except the state has (indesc.). If they don't respond, you can get a default and you file an application for entry of default and an

affidavit stating, "Such-and-such a date I served the person and they didn't respond." Here is the proof: the affidavit of service from the person who served it or the green card in the mail. The file will reflect there is no answer, and I request a default." Then the court enters a default. Then you can get a default judgment if it is for money, like it is in small claims. If it's not, you can get a default hearing, like in a divorce. If it's for a money judgment, you can also apply for a default judgment at the same time and the clerk can see [for example] I lent him \$10,000, he has not paid me back, here is the promissory note and my affidavit that he has not paid me back. And that's also the complaint and they will enter a default judgment.

REPRESENTATIVE DAHLSTROM thanked him for his help "for those of us who are non-attorneys."

Number 0856

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, stated that the latest information that he has, in answer to a previous question from Representative Lynn regarding a comparison of Alaska to other states, is from 2001, when there were five states with jurisdictional limits above Alaska's current rate of \$7,500. He noted that in two states there is a match of Alaska's limits and there are 42 states that are below Alaska's rate, most considerably below. He pointed out that the "overwhelming" number of states have small claims jurisdiction limits of two to five thousand dollars. He reported that the caseload average in small claims court is between 10,000 and 12,000 cases a year, whereas superior court cases average 3,000 to 3,500. He noted that small claims [courts] tend to have a high volume of cases. He testified:

As is typically the case, the court system doesn't take a position on this bill in terms of pro or con. That's our standard policy. We try to leave most of the policy debates up to you and don't weigh in one way or the other. We try to point out general problems that we have with a bill, but we generally don't weigh in as to whether it's a good idea or a bad idea.

This bill falls into a gray area between supporting, opposing, or remaining neutral, and that's because

most judges see a variety of potential problems with the bill. But the bill is also consistent with the court's general philosophy, which is to make the court more accessible, particularly to the growing number of people who are going to court without an attorney. Small claims court is the most per se friendly court and is intended to be, as Representative Gruenberg said, "the people's court." This bill is consistent with the philosophy of making that court more accessible. So our testimony is going to raise potential problems the judges have pointed out to me with the bill, and at the end I will try to explain why we still, despite these problems, are (indisc.) take that position.

Section 1 of the bill raises the jurisdiction of the district court of \$50,000 to \$75,000. The court doesn't have any objection with this provision.

MR. WOOLIVER went on to say that since this hasn't been raised in several years it is fair. He reported that several judges have expressed concern with raising small claims limits because this might frustrate the general purpose of that court, which is to move a high volume of low-dollar-value cases through the system. He noted that it's the general citizen's opportunity to have his or her case heard before a judge without a lawyer, a long delay, pretrial motion practice, or depositions. He stated that the judges are concerned about a \$10,000 limit because the judges think this provision will not actually change the fact that very few people consider a claim in excess of \$7,500 to be small. He agreed with Representative Gruenberg that one of the benefits of small claims court is that for people who are not attorneys there are no complicated pretrial steps. He stated this also means that the person goes into court with no idea as to what the opponent "has in their corner." He testified that the judges believe that most people would not go to small claims court because of this if the amount of money involved is over \$7,500.

MR. WOOLIVER listed the second concern as the probability that people in cases involving \$10,000 are likely to come to small claims court with counsel and that the process that lawyers follow in court will lengthen the time spent in small claims court, thus causing full-blown and lengthy trials. He offered that this causes a backup in small claims court.

MR. WOOLIVER noted that most of the time out-of-state hearings come with a telephonic proceeding. The Alaska Court System

relies heavily on daily telephonic proceedings, which come with certain problems. He stated that these problems are particularly difficult in small claims court, where the whole purpose is to move cases quickly through the system. He listed the issues: the first problem is getting a person on the phone; the person may be using a cell phone number that cuts in and out of reception; then the person isn't necessarily well prepared. He notes that judges are better able to assess credibility of a person who is directly in front of them, rather than out of state.

MR. WOOLIVER said that none of these problems are unique to this issue and that in this state telephonic proceedings are common. This bill does not create telephonic problems, but these problems are exacerbated.

Number 1247

MR. WOOLIVER asserted that this bill will require magistrates to have additional training, since none of them have had to deal with out-of-state defendants, except in limited circumstances. He admitted it will not necessarily be a huge problem because if a magistrate feels overwhelmed by a case, he/she can refer it to district court.

MR. WOOLIVER restated that the court does not object to HB 227, since this bill is consistent with the court's general philosophy of making the courts more accessible to people so they can come to court without the assistance of counsel. He listed several means that the court is using to help citizens negotiate "this arcane system." He reiterated that the court is neutral on HB 227 and leaves the legislature to weigh the pros and cons. He cautioned that this bill helps people but may also create a process that undermines the whole purpose of small claims court by making it more costly and time-consuming than it is intended to be.

REPRESENTATIVE CRAWFORD asked if it would be an incentive to take more cases to small claims court if the limits were raised on small claims.

MR. WOOLIVER stated that it could, since there is a category of cases that people are discouraged to bring and indeed don't bring because they have to go to regular district court. He voiced that the courts may see more cases, particularly with out of state defendants, than are being seen at present. However, he admitted that in the past when the jurisdiction of small

claims court was increased there was no corresponding increase in cases.

Number 1481

REPRESENTATIVE ROKEBERG asked what the requirements for counsel are in small claims court.

MR. WOOLIVER responded that attorneys may come to small claims court, but that it is exceptional.

REPRESENTATIVE ROKEBERG noted that this bill shifts costs within the system, and that this may be positive overall.

MR. WOOLIVER responded that it would be positive in those cases where the superior court is busier than the district court, and a piece of the superior court's work is moved to the district court.

REPRESENTATIVE ROKEBERG asked what the educational requirements are for magistrates, what the current situation is in the Anchorage area, and what the impact of this bill might be.

MR. WOOLIVER replied that many magistrates in outlying areas are not attorneys and sometimes work part-time. In hub areas the magistrates are attorneys.

MR. WOOLIVER testified that in Anchorage the magistrates operate differently in that they handle many domestic violence and traffic cases, with the district court judges handling small claims cases. He noted that the concerns about training magistrates will only apply to some parts of Alaska, but not Anchorage.

REPRESENTATIVE ROKEBERG continued with his concern about expanding the jurisdiction of magistrates who have an inadequate training background to carry out this bill if it becomes law.

Number 1800

MR. WOOLIVER responded that an area of concern with the judges occurs when tourists or people who fish visit remote communities, have problems, leave the state and are then named in a case. He stated that the case would go to the magistrate but the magistrate can always refer the case to a district court judge.

REPRESENTATIVE ROKEBERG asked that attention be turned to page 4, line 11, of the bill, commenting that proposed rule 11(a)(4)(C) would only be applicable if the defendant was present in Alaska. He expressed curiosity about what would happen if the defendant was a corporate entity and, if the defendant was physically present because of conducting business, what the legal interpretation would be.

MR. WOOLIVER responded that if one does business in Alaska and has an office here, then that person or entity can be sued in Alaska.

REPRESENTATIVE DAHLSTROM stated that her question pertains to Section 4, line 11, also, because she represents many constituents, particularly the military, who are physically out of the state. She asked if this bill would affect them. She noted that there was an Act, the [federal] Soldiers and Sailors Civil Relief Act, that protects them while they are defending the United States. She asked if this had been considered.

Number 2003

MR. WOOLIVER admitted that he does not know the full scope of that law, but thinks that this bill affects that law.

REPRESENTATIVE GRUENBERG stated that he had a number of points to add to Mr. Wooliver's answers. He stated that this bill would not affect the Soldiers and Sailors Civil Relief Act, since this Act mandates that an attorney be appointed to advise the service person of his/her rights. This bill is intended to make it easier for people to use the court system without getting into the formal rules of district court. He conveyed that nothing in the bill makes it easier for somebody to get into court in Alaska; it just determines which court, and the purpose is to expand the lower, simpler, easier, quicker courts.

REPRESENTATIVE DAHLSTROM voiced an example of a constituent who is serving in Iraq for an extended time; is that person immune until he/she returns?

REPRESENTATIVE GRUENBERG clarified:

[The Soldiers and Sailors Civil Relief Act] just makes sure that the absent service person has the right to a court-appointed attorney to advise them of their right to defend themselves. It doesn't stay the action, to my knowledge; it doesn't give them an in-court

counsel. It is a very minor appointment, simply that if you are being sued, you have a right to defend yourself. I'm not aware of anything in Alaska law or of any federal law that stays a case because of the [Soldiers and Sailors Civil Relief Act] Act.

REPRESENTATIVE GUTTENBERG returned to line 11, page 4 of HB 227 and asked what happens if the defendant causes something to happen when he/she is not physically in Alaska. He gave the example of being a renter, leaving without telling the landlord, then not paying the utility bill, and thereby causing the house to freeze.

REPRESENTATIVE GRUENBERG spoke in reply as though he were advising the landlord:

They could sue on several theories. They could sue you because you failed to maintain the unit, assuming you did, under your lease, under the landlord-tenant Act. And that's already law, and they could already sue you under that theory. If they just sued you for negligence, not under the landlord-tenant Act, and if you failed to pay the bill and the damage occurred while you, David Guttenberg, were still in Fairbanks, yes, for that portion of the damage they could sue you in small claims. Once you skip the state, if additional damages occurred while you were back in New York, they couldn't because the damages that occurred then would not be under this. That would be my interpretation.

REPRESENTATIVE GATTO commented that he is in favor of the bill,

**TAPE 04-1, SIDE B**

REPRESENTATIVE GATTO noted that it would open up the court to people who can't afford to be represented by an attorney. He said \$10,000 in this state is not even the price of a used car. He states he is in favor of the bill.

Number 2345

CHAIR ANDERSON asked if there were any other specific questions and whether anyone was opposed to moving this bill out today.

Number 2310

REPRESENTATIVE GATTO moved to report HB 227 out of committee with individual recommendations [and the accompanying fiscal notes].

REPRESENTATIVE ROKEBERG objected for purposes of discussion, and declared that he wanted to move this bill out of committee with an "amend" [recommendation], specifically recommending that the House Judiciary Standing Committee review Section 4 closely. He expressed concern that Rule 11 would allow magistrates to have substantially expanded jurisdiction over non-automotive and landlord-tenant cases. He is concerned about the magistrates' levels of competency and abilities to handle the complexity. The tendency here is to favor those who wish to more cheaply pursue claims, which typically are business people, against the typical, average-person defendant. He said this interpretation of the bill makes it more pro-business than pro-people.

REPRESENTATIVE GRUENBERG responded that the point is well taken and continued with clarification that Rule 11 deals with small claims court and that most of these claims are heard by judges rather than magistrates. He stated that perhaps inserting language into the bill that says "except magistrates" would be a good idea.

Number 2183

REPRESENTATIVE ROKEBERG stated that this insertion would allay his concerns. He noted, "You still have the small claims litigant going into district court and being able to use this out-of-state reach under this addition with a district court judge supervising the claim."

REPRESENTATIVE ROKEBERG removed his objections.

CHAIR ANDERSON announced that HB 227 was reported from the House Labor and Commerce Standing Committee.

HB 351-CARBON MONOXIDE DETECTION DEVICES  
Number 2162

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 351, "An Act relating to the devices, including carbon monoxide detection devices, required in dwellings; and providing for an effective date."

Number 2132

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, sponsor of HB 351, told the committee that Representative Gatto and he are both sponsors of this bill and a companion bill that actually adds arson to the list of compensable violent crimes. He explained that the bill is designed to save lives by requiring that by January 1, 2005, all qualifying residents in the state have carbon monoxide detection devices. On page 2, Section 4, lines 15-18 defines qualifying dwelling units as those that contain or are serviced by a gas-fueled appliance or device, by an oil-fueled device, or by a wood stove or [where the unit] has an attached garage, he said. Representative Gruenberg pointed out that an all-electric unit without an attached garage would have no need for a carbon monoxide detection device. He went on to say that this bill simply adds to the smoke detection device legislation.

REPRESENTATIVE GRUENBERG explained that HB 351 requires that the [carbon monoxide detection device] be installed and maintained in residences and rental units. He referred to page 3, Section 5, lines 10 and 11, where it states that the landlord must provide the carbon monoxide detection device. On page 3, Section 5, lines 28 and 29, it states that the tenant shall maintain the device, he commented. Representative Gruenberg told the members that this legislation has been enacted in West Virginia, Rhode Island, New York, New Jersey, and a number of cities. He added that this legislation came to him through a national task force that is headed by a woman who lost her child to carbon monoxide poisoning.

REPRESENTATIVE GRUENBERG told the members that Representative Gatto knows much more about this issue, as he serves as a firefighter.

Number 1999

REPRESENTATIVE GATTO commented that gas, oil, and wood are mentioned in the bill, but not coal.

REPRESENTATIVE GRUENBERG asked if Representative Gatto wanted to do an amendment to HB 351.

Number 1969

REPRESENTATIVE GATTO displayed a [carbon monoxide] detector and explained that the digital readout gives an accurate level [of carbon monoxide] at the moment it is read. The device also shows the peak level, the highest level since it was last

checked. He said that the device is very easy to use: simply take it out of the box and plug it into an electrical outlet. Representative Gatto told the members that carbon monoxide has the same gravity as air, so there should not be concern that carbon monoxide would sink down close to the floor.

REPRESENTATIVE GATTO shared the story of a family of five that died from [carbon monoxide poisoning]. They had a detector and never knew what happened because there was some construction work being done [on their home] and the detector had been removed from the wall and disabled. Making this law would not have saved this family. They made the mistake of taping over their air intakes to their furnace because the temperatures were so cold.

REPRESENTATIVE GATTO told the members that his primary reason for supporting this bill is his concern for children. At a young age, children utilize oxygen at a much faster rate than adults do. They also "up-take" carbon monoxide at a much faster rate than adults. As a result, if there is a very minor problem [of carbon monoxide presence], but it continues on for long periods of time, which can happen because there is no awareness of the existing problem, then the children up-take low levels of carbon monoxide. He went on to tell the committee that a child that is in this situation goes off to school with carbon monoxide in his/her blood. It takes five hours to reach the "half-life," so the child still has some carbon monoxide [level in his/her blood] when returning home from school and the process begins again.

REPRESENTATIVE GATTO told the members that these devices also have a time-weighted measurement. The device does not work as a smoke alarm does, which [sounds when the temperature rises to] 300 or when the smoke is thick. This device will sound an alarm if the levels are high; if the levels are low, the device will be measured, and if the levels continue, the device adds them, he said. He explained that if the levels are low, it could take two weeks before the device would [sound its alarm]. He told the members that the device costs \$25 and has a battery for backup.

Number 1727

REPRESENTATIVE GATTO told the members that this condition for children leads to slower learning and some permanent impairment if the conditions exist for a long enough period. He said he

would like to see as many of these devices in as many homes as possible.

REPRESENTATIVE GATTO shared that when he was the captain of the fire department and there was an emergency call, he would have the emergency crew deal with the medical emergencies, and he would do a safety check in the house. Many times he would find a smoke alarm without a battery or with a dead battery. He said he often would replace it, particularly for elderly persons.

REPRESENTATIVE GATTO told the members that, as a firefighter, it would make his day when arriving at the scene of a fire at 2 a.m. and the [alarm was sounding] because he would assume that the alarm was heard and that the people were outside the house and individuals could be accounted for. However, at 2 a.m. with no noise and a car in the driveway, there was the assumption that firefighters were facing a rescue.

Number 1577

REPRESENTATIVE GATTO read portions of a letter of support into the record as follows:

Representative Gatto, or Carl, as they used to call you in the Providence Emergency Department:

Alaska Safe Kids supports your effort to introduce CO [carbon monoxide] detection legislation in Alaska. After working in Alaska nursing for nearly 38 years and being the statewide Alaska Safe Kids Coalition coordinator for 15 years, it is evident that CO poisoning is a preventable injury/death for Alaska citizen. It is also evident that the general population knows little about how to protect themselves.

REPRESENTATIVE GATTO noted that he will skip a portion of the letter and proceed to the conclusion portion as follows:

Moving to legislation really does bring the same deserved attention to CO as we now have with smoke detectors.

Thank you, Carl, for your work.  
Peggy Hayashi, RN  
State Coordinator  
Alaska Safe Kids Coalition

REPRESENTATIVE GATTO concluded his remarks by asking the members to vote yes on this bill.

Number 1524

REPRESENTATIVE LYNN commented that he likes the entire concept and believes it is a good bill. As a realtor in his other life, he said he knows the importance of smoke and fire detectors. He noted that the effective date is January 1, 2005, and asked whether a friendly amendment might be added such that if title [to a property] changes between now and 2005 or a new lease is executed, then at that time a carbon monoxide detector would have to be installed.

REPRESENTATIVE GRUENBERG responded that when the initial smoke detector legislation was passed in 1975, it was made effective January 1st of the following year. He told the members he would consider Representative Lynn's suggestion a friendly amendment. He added that he would defer to Representative Gatto on including other fossil fuels in the bill. Perhaps this would be an amendment too.

Number 1453

REPRESENTATIVE GATTO commented that these amendments could be worked out and brought back before the committee on Friday, when the bill would be passed from committee.

Number 1436

REPRESENTATIVE ROKEBERG questioned the amendment Representative Lynn suggested, and asked if there is adequate time for a transition period. He asked the members to consider that if the time for enforcement is accelerated, then there needs to be a rational basis. There should be some implicit time during which the public is given notification of the change in law.

REPRESENTATIVE LYNN replied that he believes that could be worked out.

REPRESENTATIVE GRUENBERG said he believes these issues could be worked out and a common solution could be included in the [resulting proposed] committee substitute (CS).

Number 1382

REPRESENTATIVE GUTTENBERG asked if there is any intention to do public service announcements.

[Chair Anderson turned the gavel over to Representative Gatto; although he was referred to as Vice Chair, technically he was not.]

REPRESENTATIVE GATTO commented that he has been approached about public service announcements for the Matanuska-Susitna valley. He added that he would inquire about that.

REPRESENTATIVE ROKEBERG commented that on page 2, Section 4, there is the concept of a qualified dwelling unit. He said what he believes the sponsors are trying to do is exempt dwellings with electric heat. Representative Rokeberg told the members that he is concerned about that because of the definition of the source of heating element within a dwelling unit. He commented that this would amend the fire protection statute, AS 18.70, and the landlord-tenant Act, AS 34.

REPRESENTATIVE GRUENBERG responded that the only place the terms "qualified dwelling unit" appears, if this bill passes, is in these new sections and nowhere else. That term only appears in AS 18.70.095(a) and AS 18.70.095(b).

REPRESENTATIVE ROKEBERG replied that his interpretation of that would mean that any "qualified dwelling unit" would mean any premise where someone could bed down for the night and that has a non-electric source of heating. He asked if it is the sponsors' intention to put these [devices] in every hotel, motel, and bed and breakfast in the state.

REPRESENTATIVE GRUENBERG commented that most of these kinds of facilities would have electric heat or forced air, not fossil fuel.

REPRESENTATIVE ROKEBERG pointed out that this would amend the fire protection code. This bill says that every dwelling unit in the state will have to have a CO detection device in it.

Number 1157

REPRESENTATIVE GRUENBERG asked a hypothetical question of Representative Gatto. Is there a danger of CO [poisoning], for instance, in a motel that has a hot water furnace in the basement?

REPRESENTATIVE GATTO replied that there is not. He stated that a generating plant that uses fossil fuels to run turbines would have some danger; however, once the electricity gets to the [dwelling] there is no danger of CO [poisoning]. There would have to be some kind of interface with combustion products for a danger to exist.

REPRESENTATIVE GRUENBERG questioned whether a better term should be used instead of "service."

REPRESENTATIVE ROKEBERG commented that a new term is being introduced into statutes, "qualified dwelling", and the interpretation of that could be infinite. He told the members that his interpretation is that this would be applicable to all types of dwelling units. Representative Rokeberg added that he is not sure that is appropriate.

REPRESENTATIVE GRUENBERG replied that was not the intent of the legislation. The intent is to only address [dwelling units] that CO could get into.

REPRESENTATIVE ROKEBERG asked what the difference is between a 6-room bed and breakfast and a 600-room hotel.

Number 1060

REPRESENTATIVE GATTO replied that with the amount of carbon monoxide produced in a furnace that has access to a room, if the building is large and the room is remote, a lot could be satisfied with a smoke detector in the vicinity of the combustion [source].

Number 1032

REPRESENTATIVE ROKEBERG stated that the bill would be a waste of money unless it was better defined. He questioned whether the bill would have any effect on public safety.

Number 1003

REPRESENTATIVE GRUENBERG replied that the point was well taken and the bill will be worked on further as a committee substitute.

REPRESENTATIVE ROKEBERG asked if Representative Gruenberg was aware of the consequence of failing to install a CO detector in one's home. He stated that it was a class B misdemeanor, which

would criminalize everyone "in the state." He questioned whether this should be the intent of the bill.

REPRESENTATIVE GATTO stated that many people are criminalized for not having smoke detectors, but it gives the fire inspectors heavier weight to be able to say, "By the way, that's illegal." He gave further examples of ways that people are criminalized under laws that are not enforced.

Number 0845

REPRESENTATIVE ROKEBERG repeated that laws are enacted that are not enforced.

REPRESENTATIVE GRUENBERG stated that he agreed with Representative Gatto in that this law will save lives. He stated that he was not aware of any prosecution but it has the force of law behind it.

REPRESENTATIVE ROKEBERG called this bill a "paper tiger" and stated that he didn't think that it was a proper sanction; bad laws that are not enforced are meaningless.

Number 0787

REPRESENTATIVE GRUENBERG responded that he thought the fact that the fire department could come in and state that not having CO detectors is illegal is an important point because most people want to obey the law. He stated that he would hate to see the carbon monoxide requirement not put in with smoke detectors because that would say that it is not as important.

Number 0736

REPRESENTATIVE LYNN stated that he lives in a motel with a kitchenette and that such rooms would need carbon monoxide detectors.

Number 0691

REPRESENTATIVE GATTO stated his intention to hold HB 351 in order to make revisions.

Number 0673

SKIP SCHIEL, Cambridge, Massachusetts, testified in favor of HB 351. He stated that he lived in a 24-unit apartment that was

heated by oil and that many people, himself included, experienced CO poison-like symptoms. He explained that even though the furnace was in the basement, all of the units were affected, which is a good argument for each unit to have a carbon monoxide detector.

Number 0464

JOHN BITNEY, Lobbyist for Alaska State Home Builders Association, spoke on behalf of his organization's unanimous support of HB 351.

Number 0416

TOM KEMPTON, Deputy Chief, Anchorage Fire Department, Municipality of Anchorage, spoke in strong support of HB 351. Since the tragic carbon monoxide poisoning death of the members of the Arts family, his fire department has been very aggressively promoting carbon monoxide detectors, he said. He stated that there has been an increase in calls for alarm-sounding detectors, and in response to these calls, high levels of carbon monoxide have been found in several homes.

MR. KEMPTON further explained the need for a battery backup for the detectors because of the number of power outages and gas-fired generators owned by Alaskans. He said that often the generators are not located outside of the home, and that is an added risk for carbon monoxide poisoning.

Number 0302

REPRESENTATIVE ROKEBERG asked if Anchorage had a local ordinance requiring carbon dioxide monitors.

MR. KEMPTON replied that it does not. The Anchorage assembly is waiting for the state to see what it does first, he said. He mentioned that the Arts family did not have a carbon monoxide detector in their home.

REPRESENTATIVE ROKEBERG remarked that he had heard that the Arts family had a detector but that it was unplugged due to construction.

MR. KEMPTON restated that the family did not have a working unit and explained that there was a sequence of events which caused the death.

Number 0148

REPRESENTATIVE ROKEBERG stated that houses are being built much tighter these days and he wondered if older houses had less of a problem with carbon monoxide poisoning than the newer ones.

MR. KEMPTON replied that indoor air quality problems are an issue in Alaskan homes because they are so insulated. However, one of the states with the highest number of incidents is Florida because its homes are so tightly insulated to keep out the heat.

Number 0030

REPRESENTATIVE ROKEBERG asked questions about combination smoke and fire detectors, their costs, and whether they can be hardwired.

MR. KEMPTON answered that carbon monoxide detectors typically cost \$20 to \$40 and there are all kinds of combinations. He recommended one with a battery backup.

**TAPE 04-2, SIDE A**

Number 0052

REPRESENTATIVE ROKEBERG asked what the current requirements for smoke detectors were and what range they covered.

MR. KEMPTON replied that he was not familiar with local codes, but the Anchorage Fire Department recommends that people provide a smoke detector on every level of their home, especially outside sleeping areas where alarms could be heard. He stated, "We don't recommend that people install carbon monoxide detectors in a garage where they would constantly go off."

Number 0139

REPRESENTATIVE GATTO explained that he had five detectors in his house and gave their locations. He stated that even the one in the garage works well.

MR. KEMPTON cautioned that people sometimes pull out the batteries if they get too many nuisance alarms. He said that the new smoke detectors have new technology on them like pause buttons.

Number 0312

REPRESENTATIVE GRUENBERG asked whether Mr. Kempton knew if insurance companies give reductions for having a carbon monoxide and/or smoke detector.

MR. KEMPTON answered that he was not aware of any insurance companies that do. He stated that insurance companies have a waiver that must be signed requiring smoke detectors, but not carbon monoxide detectors.

REPRESENTATIVE GRUENBERG referred to page 2, lines 16 and 17 of HB 351 that talks about gas fuel, oil fuel, wood stoves. He said that there was nothing about coal or fossil fuel. He asked if Mr. Kempton would recommend those be included, too.

Number 0407

MR. KEMPTON replied that that seemed reasonable and agreed that coal and fossil fuel should be included.

Number 0431

REPRESENTATIVE GRUENBERG asked if Mr. Kempton would be willing to work with the committee on language.

MR. KEMPTON replied that he would.

REPRESENTATIVE GRUENBERG asked Mr. Kempton if he thought the language on line 16, "contains or is serviced by", should be changed to deal with Representative Rokeberg's earlier comment about the 600-unit motel.

Number 0473

MR. KEMPTON answered that multi-resident units present quite a burden on the motel owner to install that many detectors. He said he thought more discussion was needed on this subject. He stated that the rooms may be protected by a zone detector. Mr. Kempton agreed to help in this area, also.

REPRESENTATIVE GATTO stated that HB 351 is being held over until Friday when a proposed CS will be written.

**ADJOURNMENT**

There being no further business before the committee, the House Labor & Commerce Standing Committee meeting was adjourned at 5:00 p.m.