

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

February 11, 2004

3:20 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Norman Rokeberg  
Representative David Guttenberg

**COMMITTEE CALENDAR**

HOUSE BILL NO. 403

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

- HEARD AND HELD

HOUSE BILL NO. 386

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

- MOVED HB 386 OUT OF COMMITTEE

HOUSE BILL NO. 213

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

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

HOUSE BILL NO. 80

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

- HEARD AND HELD

HOUSE BILL NO. 450

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

- HEARD AND HELD

**PREVIOUS ACTION**

BILL: HB 403

SHORT TITLE: ALASKA INSURANCE GUARANTY ASSOCIATION

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

01/28/04	(H)	READ THE FIRST TIME - REFERRALS
01/28/04	(H)	L&C, JUD, FIN
02/09/04	(H)	L&C AT 3:15 PM CAPITOL 17
02/09/04	(H)	Heard & Held
02/09/04	(H)	MINUTE(L&C)

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

BILL: HB 386

SHORT TITLE: NATURAL GAS DEVELOPMENT AUTH. CONTRACT

SPONSOR(S): REPRESENTATIVE(S) CROFT

01/20/04 (H) READ THE FIRST TIME - REFERRALS

01/20/04 (H) L&C, O&G, RES

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

BILL: HB 213

SHORT TITLE: PROVISIONAL DRIVER'S LICENSE

SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

03/26/03 (H) READ THE FIRST TIME - REFERRALS

03/26/03 (H) TRA, L&C

04/01/03 (H) TRA AT 1:30 PM CAPITOL 17

04/01/03 (H) Heard & Held

04/01/03 (H) MINUTE(TRA)

04/03/03 (H) TRA AT 1:30 PM CAPITOL 17

04/03/03 (H) Heard & Held

04/03/03 (H) MINUTE(TRA)

04/15/03 (H) TRA AT 1:30 PM CAPITOL 17

04/15/03 (H) Heard & Held/Subcommittee assigned

04/15/03 (H) MINUTE(TRA)

01/22/04 (H) TRA AT 1:30 PM CAPITOL 17

01/22/04 (H) -- Meeting Postponed to 1/27/04 --

01/27/04 (H) TRA AT 1:30 PM CAPITOL 17

01/27/04 (H) Heard & Held

01/27/04 (H) MINUTE(TRA)

02/03/04 (H) TRA AT 1:30 PM CAPITOL 17

02/03/04 (H) Moved CSHB 213(TRA) Out of Committee

02/03/04 (H) MINUTE(TRA)

02/09/04 (H) TRA RPT CS(TRA) 6NR 1AM

02/09/04 (H) NR: KAPSNER, KOOKESH, MASEK, OGG,

02/09/04 (H) STEPOVICH, HOLM; AM: KOHRING

02/09/04 (H) FIN REFERRAL ADDED AFTER L&C

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

BILL: HB 80

SHORT TITLE: PROHIBIT SOFT DRINKS IN SCHOOL

SPONSOR(S): REPRESENTATIVE(S) KAPSNER

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

02/05/03 (H) L&C, HES

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

BILL: HB 450

SHORT TITLE: INSURANCE & WORKERS' COMPENSATION SYSTEM

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

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

**WITNESS REGISTER**

SARAH McNAIR-GROVE, Property Casualty Actuary  
Division of Insurance  
Department of Community and Economic Development  
Juneau, Alaska  
POSITION STATEMENT: Testified on HB 403.

MARK GNADT, Staff  
to Representative Eric Croft  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: Introduced HB 386 on behalf of  
Representative Croft, sponsor.

HAROLD HEINZE, Chief Executive Officer  
Alaska Natural Gas Development Authority (ANGDA)  
Anchorage, Alaska  
POSITION STATEMENT: Testified in support of HB 386.

LEONARD HERZOG, Assistant Attorney General  
Oil, Gas & Mining Section  
Civil Division (Anchorage)  
Department of Law  
Anchorage, Alaska  
POSITION STATEMENT: Testified on HB 386.

LINDA SYLVESTER, Staff  
to Representative Bruce Weyhrauch  
Alaska State Legislature  
Juneau, Alaska  
POSITION STATEMENT: As staff to Representative Weyhrauch,  
sponsor of HB 213, explained the bill.

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

POSITION STATEMENT: Testified in support of HB 213 and shared information about graduated driver's licensing from a nationwide perspective.

CINDY CASHEN, Executive Director  
MADD [Mothers Against Drunk Driving] Juneau Chapter  
Juneau, Alaska

POSITION STATEMENT: Testified as a representative for statewide MADD chapters in support of HB 213.

MARTHA MOORE, Coordinator  
Alaska Trauma Registry  
Department of Health and Social Services  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 213.

DUANE BANNOCK, Director  
Division of Motor Vehicles  
Department of Administration  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 213.

REPRESENTATIVE MARY KAPSNER  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 80.

STEVE CLEARY, Executive Director  
Alaska Public Interest Research Group (AkPIRG)  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 80.

MARIE LAVIGNE, Executive Director  
Alaska Public Health Association  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 80.

JULIAN NAYLOR, M.D., Alaskan Diabetes Consultant  
Alaska Native Medical Center  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 80.

JENNIFER APP, Alaska Advocacy Director  
American Heart Association  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 80.

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

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

**ACTION NARRATIVE**

**TAPE 04-11, SIDE A**

Number 0001

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

HB 403-ALASKA INSURANCE GUARANTY ASSOCIATION

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

Number 0135

REPRESENTATIVE CARL GATTO moved to adopt the proposed committee substitute (CS), Version D, labeled 23-GH2105\D, Bullock, 2/11/04, as a work draft.

CHAIR ANDERSON objected for discussion purposes.

Number 0154

SARAH McNAIR-GROVE, Property Casualty Actuary, Division of Insurance, Department of Community and Economic Development, said she hadn't actually reviewed Version D, but thought she knew its intent.

CHAIR ANDERSON asked what sections had been removed because of the recommendations from the Association of Alaska School Boards and the joint insurance associations (JIAs). He recalled that the self-insured groups had requested that certain sections of HB 403 be deleted.

MS. McNAIR-GROVE said she believed Sections 1, 3, 5, 6, and 8 had been deleted. If Version D passes, then 2 JIAs and 24 or 25 self-insured employers wouldn't be subject to the guaranty association assessment.

REPRESENTATIVE CRAWFORD related his understanding that if the self-insured employers and JIAs weren't included in the bill, there wouldn't be enough money collected to solve the problem. He asked, "What's changed?"

MS. McNAIR-GROVE answered that the division was willing to take those sections out, since those groups wouldn't be covered by the guaranty association. She said the funds [from that portion of the assessment] weren't significant, and this action wouldn't significantly impact the bill.

Number 0385

CHAIR ANDERSON announced that he would hold HB 403 for further discussion, with [the pending motion to adopt] Version D and the objection maintained.

HB 386-NATURAL GAS DEVELOPMENT AUTH. CONTRACT

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

Number 0460

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

We feel this is a necessary bill because of the dynamics of the Alaska natural gas or the natural gas industry worldwide. There already have been a few contracts that have come and gone, where the Alaska Natural Gas Development Authority has been trying to meet the demands of a rapidly moving industry. And

the requirements to the procurement code inhibit them in certain ways that we feel are unnecessary.

MR. GNADT said certain state organizations or entities are exempt from the procurement code already. Some, including the Alaska Railroad Corporation (ARRC), the Alaska Aerospace Development Corporation, and a few others, [are exempt] for similar purposes of being able to move within contract negotiations without some of the obstacles that the state's procurement code puts forward. Those obstacles are great for other things in the state, and necessary, but not necessarily for organizations dealing in "the natural gas industry and other things," he added.

Number 0550

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

MR. GNADT replied, "To me, it's a set of regulations ... that guide state entities in their forming of contracts with outside sources, and things along that line." He pointed out that the state's procurement code isn't his area of expertise.

Number 0607

HAROLD HEINZE, Chief Executive Officer, Alaska Natural Gas Development Authority (ANGDA), reminded members that ANGDA is a product of the initiative process, during which little pieces of language and subtleties of law get may get left out. He said he'd make the "me too" argument, that every other public corporation of the State of Alaska, and most of its other agencies, "have been opted out" of the procurement code as part of their creation.

MR. HEINZE responded to Representative Gatto's question, noting that the state procurement code basically provides for a centralized contracting authority within the administration. This code is broadly applied to everybody in the state. He explained that the legislature and the courts are "opted out" and they have their own set of procurement procedures. He said there is a group and an individual in the Department of Administration responsible for all the procurement of the state. He described the process as a series of procedures, timelines, and requirements which basically assure that no undue political influence will result in the awarding of contracts to certain

people. The goal of this process is to keep the playing field fair and level.

MR. HEINZE explained that while the code accomplishes fairness, it also sets up situations that aren't necessarily useful to major contractors or major entities that have their own boards or other leadership, separate from the executive branch of government. He said ANGDA, as a public corporation, looks to models such as the Alaska Housing Finance Corporation (AHFC) and ARRC as organizations that have evolved and faced major decisions similar to ones he anticipates for ANGDA.

MR. HEINZE contrasted contracts under \$100,000, which have flexibility within the current system, with contracts involving hundreds of millions or billions of dollars, such as those for the purchase or sale of gas. These major contracts don't fare as well in the current system because of issues with time and other considerations.

Number 0833

MR. HEINZE proposed that the ANGDA board adopt its own procurement code so it maintains control over any contracts awarded in the future. He said he felt ANGDA would do a better job in terms of "Alaska hire" and use of Alaskan contractors if it could control the process. He informed the committee that a large number of agencies aren't covered by the code; over 43 different types of contracts, some major, are delineated in the law itself.

Number 0873

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

MR. HEINZE referred to a handout listing the following agencies: ARRC, Alaska Aerospace Development Corporation, AHFC, Alaska State Pension Investment Board, Alaska Marine Highway System and new vessels, Alaska Seafood Marketing Institute (ASMI), and University of Alaska. These entities all have their own specific, individualized procurement approaches that are tailored to meet their needs, he explained, rather than falling under the more general procurement code.

Number 0957

REPRESENTATIVE GATTO asked if there was a common thread in the procurement codes of those organizations that Mr. Heinz could use to formulate a code.

MR. HEINZE replied that all have boards that are responsible for, and have authority over, what the organization does. He proposed using AHFC's procurement code as a model for ANGDA. He said AHFC's code is of interest, since it deals with large-dollar contracts and has a small staff.

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

MR. HEINZE explained that he'd be involved and could draw upon his specific project management experience from 27 years in the oil industry. He explained that it's necessary to have a procurement process that is flexible, effective, and heavily weighted toward ensuring that the state and the authority receive full value for the contract in terms of performance, as well as for the amount of dollars spent.

Number 1110

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

MR. HEINZE explained that the enabling statute of [ANGDA] invests in the board of directors with broad authorities to conduct business; by being exempt, the board becomes responsible to ensure that a procurement procedure is followed. He assured the committee that until the board can adopt a new procurement code, "I would just continue to operate under the [present] procurement code, and move as quickly as we could, to the Alaska Housing Finance Corporation model."

Number 1180

LEONARD HERZOG, Assistant Attorney General; Oil, Gas & Mining Section; Civil Division (Anchorage); Department of Law, said Mr. Heinze had done a good job of explaining the bill, as he understands it. Mr. Herzog said he attends all [ANGDA's] meetings and remarked, "We would proceed under the procurement code until such time as the authority adopted, and published to the public, its own procurement code."

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

Number 1269

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

HB 213-PROVISIONAL DRIVER'S LICENSE

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

Number 1325

REPRESENTATIVE GATTO moved to adopt the proposed committee substitute (CS), Version 23-LS0786\X, Luckhaupt, 1/29/04, as a work draft. There being no objection, Version X was before the committee.

[Note: Version X was the same version adopted and reported from the House Transportation Standing Committee as CSHB 213(TRA).]

Number 1339

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, introduced HB 213 on behalf of Representative Weyhrauch, sponsor, and talked about CSHB 213(TRA) [and the corresponding Version X]:

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

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

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

Number 1410

MS. SYLVESTER reported that other states that have adopted graduated driver's licensing systems [GDLs] with full-on protections have seen dramatic reductions in accident rates and deaths. The standard is 20 percent, she said. She continued:

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

MS. SYLVESTER noted that the bill spent a lot of time in the House Transportation Standing Committee. She said:

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

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

If you're in your provisional period and you're a careless driver and you're speeding and you've got a ticket and you've been convicted of your ticket, then that's going to put you back, and you're not going to advance. So that's a neat idea for the police. It's the carrot that will keep the drivers safe ... on the road.

Number 1500

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

MS. SYLVESTER read from the bill, page 2, lines 20-22 [Section 3, paragraph (1)], which says for the first six months after receiving a provisional driver's license [the person may not] operate a motor vehicle that is carrying any passengers except a parent, legal guardian, sibling, or person at least 21 years of age. In further reply, she said statistics show that buddies provide fatal distractions for these kids. "So they get six months of handling all of the nuances of driving, and then they've got some... experience under their belt ... and can deal with what the buddies are doing," she added.

Number 1606

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

MS. SYLVESTER replied:

What you're referring to is a certification before you get your provisional license; ... a parent, guardian, or employer is certifying that while the kid had a permit, they've got lots of time driving. And we're saying 40 hours. So when you ... bring your kid to [the Division of Motor Vehicles] you're signing the statement that you're accepting legal liability for your child driving. And on that statement you're just saying that ... they've got [the 40 hours of driving experience]. We wanted to leave it open-ended for the

Division of Motor Vehicles. It's a form; there's no ... enforcement of it. It ... is a very open-ended item that serves to heighten people's awareness of what ... standard ... is necessary.

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

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

Number 1690

KEVIN E. QUINLAN, Chief, Safety Advocacy Division, National Transportation Safety Board (NTSB), Washington, D.C., spoke in support of HB 213, noting that members had two documents: written testimony he'd highlight and a list of safety recommendations entitled "NTSB: Most Wanted Transportation Safety Improvements 2004." He said NTSB is an independent federal accident-investigation agency. Although it investigates airplane accidents and so forth, it also does highway investigations. Emphasizing that NTSB isn't a regulating agency, he explained:

We don't tell you or the states what to do. ... Rather, we ask you to do the right thing, based on our investigations, and it's really up to you to adapt the recommendations to fit your state. That said, the safety board is known for its scientific rigor and objectivity.

MR. QUINLAN said 90 percent of transportation fatalities every year happen on the highway, and 40 percent of teen deaths occur in traffic crashes - it's the leading cause of death for teenagers. In Alaska, teens constitute 7 percent of the driving population, but are 17 percent of the drivers in fatal crashes; 26 percent of the fatalities in Alaska involve teen drivers. In terms of teen passengers, two-thirds of teen vehicle-related deaths occur in vehicles driven by other teens. He continued:

One of the things that's not in the testimony is that the nation as a whole - and probably Alaska, but I haven't checked your statistics on this - is experiencing an increase in the number of young

drivers. It's called the "baby boomlet," and that increase is 25 percent. That means ... you have more in that age group, so you have more drivers, more crashes, more fatalities. That's the way it would normally work.

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

Number 1850

MR. QUINLAN continued:

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

The new phase is an intermediate phase. Six months is the minimum because most of the effect is achieved in the first six months, but it does continue up to a year. We recommend a year, but six months is fine. In that phase, there are three restrictions that the safety board recommends.

One is a nighttime driving restriction, and the reason is that the cues are different at night. Unfortunately, the people that have the best reflexes, that is, teenagers, have the worst driving record and the worst crash record. I know Alaska conditions are different: you could have nighttime driving at 4 ... p.m. That's fine. The real message is, we need to give them lots of nighttime driving experience and lots of driving experience that's supervised.

We also recommended a passenger restriction of zero or one, to last at least six months, again, preferably a

year. The reason we picked one [passenger] is for security: ... in some areas you need to consider security issues unless they're supervised. And then they can have as many people as they want. You need an adult supervising driver.

The last one is a cell-phone restriction. This is just for the provisional phase. Now, some states have banned handheld cell phones. We've investigated crashes involving teen drivers where, clearly, the distraction was the cell phone. ... I have to tell you, I was unconvinced when I looked at the first investigations on this, but then I came to realize, with the data that we had, that the distraction for a teenager in the learning phase and the intermediate phase is very analogous to that of having multiple teen passengers, again, crash- and violation-free driving.

Number 1941

MR. QUINLAN continued:

We have 39 states with a three-phase system; 36 states, including Alaska, have some elements, and I mentioned that one of a graduated licensing system; 37 have nighttime restrictions; and the newer one that almost didn't exist three years ago, 26 states now have passenger restrictions. ...

You have in the testimony a summary sheet of effectiveness in other states. And I'd like to point out a couple to you really quickly: Michigan, 25 percent overall reduction in crash rates; that's normalized data, so that's good, hard data, and it's done by a highly-esteemed, scientific institution. The same thing in North Carolina, but look at the 57 percent reduction in fatal crashes.

There is one thing that's not in there, on California. There's a recent report from California on the reduction in teen alcohol-related fatal crashes from GDL, a totally unexpected consequence of ... enacting GDL. It's done by the [Automobile] Club of Southern California.

MR. QUINLAN also pointed out that in Pennsylvania there was a 58 percent reduction in fatalities. Turning to the "most wanted" list, he noted that GDLs are right up there with measures to keep aircraft from exploding in mid-air and running into each other on the ground. "We take this very seriously," he remarked. "It will actually save more lives."

Number 2042

MR. QUINLAN continued:

Let me just wrap up by saying ... I like to read state constitutions, and most states in the United States have the word "safety" in Article I. Alaska doesn't, but it does say that you have the right to life, and in Article VII it talks about public health and public welfare. ... That's what we are really talking about here.

We strongly support HB 213. We know this measure works; it's one of the most effective actions that you can take to prevent teen deaths and the deaths of others in teen crashes. And the best part is, it's not just this year, it's every year. ... It passes all of the tests, and the one that's most important to me is that it passes the commonsense test because teen drivers just need experience driving. We cannot do what Germany does and require 270 hours of driver education. That's not going to happen. But we can give them lots of driving experience. And I think, finally, it's just the right thing to do.

REPRESENTATIVE GATTO asked if "teens" refers to anyone younger than 20 years of age.

MR. QUINLAN said that's how the data is "cut." The states make the age what they want: 14 in some, 15 or 16 in others, for example, or [18] in New York.

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

MR. QUINLAN replied:

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

Number 2188

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

MR. QUINLAN referred to a television news program that showed teen drivers in a car with camera surveillance in the car. The three girls "still blew a stop sign" because there were teen passengers in the car. He explained that the first six months of driving is a critical time, an intermediate phase when it's important to restrict teen passengers.

Number 2230

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

MR. QUINLAN replied:

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

Number 2340

CINDY CASHEN, Executive Director, MADD [Mothers Against Drunk Driving], Juneau Chapter, testified in support of HB 213 on behalf of four of the MADD Alaska chapters: Anchorage,

Fairbanks, Juneau, and Mat-Su. She said this is the MADD Alaska chapters' number-one priority.

**TAPE 04-11, SIDE B**

Number 2350

MS. CASHEN said:

We feel that early driving experiences must be required in a lower-risk environment through extended restriction of no alcohol use, primary belt enforcement, limitations on nighttime driving and teenage passengers. Appropriate restrictions should be lifted in stages, based on clean driving records.

According to the Alaska Highway Safety Office, in the year 2000 in Alaska there were over 3,800 crashes involving 16- to 20-year-old Alaskan teenagers. The next year, 2001, it went up ... by over 400. In the year 2000, every two and one-half hours there was a teenager in Alaska being involved in a crash. In 1995 to the year 2000, that five-year period, there were 64 Mat-Su teen drivers in motor vehicle crashes on the highway who were injured seriously enough to be hospitalized.

Number 2299

MS. CASHEN continued:

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

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

Number 2257

MARTHA MOORE, Coordinator, Alaska Trauma Registry, Department of Health and Social Services, testified that the department supports HB 213. She explained:

My job is to ... maintain and work with an injury surveillance system. And I ... look at injury statistics in Alaska, as well as do research on them. It's common knowledge that teens are at greatest risk for traffic crashes and have the highest motor vehicle fatality rates.

Several years ago, the Associated Press published an article with a report from a 20-year study by the Insurance Institute for Highway Safety. And the report said ... two important and impressive facts. One is that even though the death rates ... for crashes were declining, [for] those 16 years old, their death rates had doubled in the 20 years ... from 1975 to 1996. And the second thing it said was that the death rate of the 17- to 19-year-olds was twice that of older drivers, but the death rate for 16-year-olds was half again as much. So, it was actually three times that of the older drivers.

The reasons the 16-year-olds are at such high risk are, first and foremost, youth, just sheer immaturity; ... secondly, inexperience; third, risk-taking behavior, which is common among young people and is certainly exacerbated by peer pressure; and then lastly, distractions while driving, which would certainly increase when other teens are in the car.

Number 2175

MS. MOORE continued:

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

The legislation before you does three important things. And it helps youth to gain the experience [they need], driving under the supervision of an adult. It puts off full licensure for six months,

which from the statistics evidently is ... a critical time - that sixteenth year, even six months into the sixteenth year - for them to attain the maturity they need to be a better driver. It removes ... the highest risk factors for ... six months of unsupervised driving by restricting the nighttime driving and having teen passengers in the car.

I have done research on teen driving in Alaska, and I've published a paper ["Comparison of Young and Adult Driver Crashes in Alaska Using Linked Traffic Crash and Hospital Data"] in the Alaska Medicine Journal. I'd be happy to leave that with you. Essentially, in summary, ... what happens with Alaskan teens is not unlike the rest of the country. ... The economic burden on the state is lopsided for teens as well.

Number 2086

DUANE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, said the division is supportive of the bill.

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

Number 2061

REPRESENTATIVE LYNN moved to report CSHB 213, Version 23-LS0786\X, Luckhaupt, 1/29/04, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 213(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 80-PROHIBIT SOFT DRINKS IN SCHOOL

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

Number 1990

REPRESENTATIVE MARY KAPSNER, Alaska State Legislature, sponsor of HB 80, explained that she prefers to characterize this bill as requiring schools to substitute sodas and carbonated beverages with more healthful drinks. Noting that she'd come up with the idea herself, she expressed concern for the rising epidemic of obesity across the nation, particularly pediatric or

childhood obesity. Emphasizing the desire to refocus the system so it is a health care system and not a "disease care" system, she remarked, "I feel that school should be a place of learning and habit formation. And especially while kids are in school, we should be promoting healthy habits and healthy nutrition."

REPRESENTATIVE KAPSNER reported that she'd attended a conference in Portland this past summer. She mentioned a call to action by the surgeon general on overweight and obesity, saying two-thirds of women are overweight or obese in the nation. She said:

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

REPRESENTATIVE KAPSNER said it was pointed out that for obese kids, their quality of life is equivalent to the quality of life kids face who are fighting cancer and under chemotherapy. Furthermore, in the last year \$117 billion was spent by the federal government for obesity-related diseases, including indirect costs such as loss of wages and future earnings lost. Representative Kapsner asked, "When you compare that to the \$87 billion that people were outraged that we are spending on the war in Iraq, and the outcry that that brought forth, where is the corresponding outcry for the cost of obesity and overweight-related diseases?"

Number 1840

REPRESENTATIVE KAPSNER acknowledged that soda isn't the only factor in obesity. She told members:

My hope is that this will just be one segment of a host of bills that we can put forward that would address health issues. ... A lot of people are concerned, not only about soda in vending machines, but also unhealthy snack food in vending machines and also school districts having a rotating menu of fast-food carriers coming in throughout the week. That's one of the examples that Juneau-Douglas High School has: every day of the week they have a different fast-food industry preparing their meal.

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

REPRESENTATIVE KAPSNER addressed concern about eliminating revenue from vending machines. Noting that Oakland, California, has mandated that schools substitute more healthful foods in vending machines, she remarked, "They have actually made more money for their school's discretionary funding." She pointed out that soda industries also [bottle] water and juices.

Number 1733

REPRESENTATIVE GATTO asked:

If a family doesn't want to take on the job, aren't they just transferring it to the school? Number two, we have drugs in schools, alcohol in schools, we have guns on school property, and we have bullying in schools, and all kinds of rules. It seems like we are overwhelmed with things that we have to do in schools to protect the kids.

This seems like just one more way for government to have a control in schools that I would just as soon be up to the principal and the parents in that school, rather than people that are sitting in Juneau. Am I wrong?

Number 1686

REPRESENTATIVE KAPSNER agreed those are valid points. Highlighting \$177 billion, however, she remarked, "As public policymakers we're not engaged in the prevention aspect as much as I think we could be. I am a ... federal taxpayer, and I shudder at the thought that we are losing \$117 billion every year, and it's going to get worse." She cited an example of going to a fourth- and fifth-grade classroom where the children were very large. Speaking of the teacher of that classroom, she remarked:

She said that the kids are getting bigger and bigger every year. She said that she promotes healthy choices. She talks a blue streak about making healthy choices, but ... a lot of times it's the parents who

are not hearing that. I think that, in the vein of prevention, we should have the discussion.

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

REPRESENTATIVE KAPSNER said:

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

Number 1571

REPRESENTATIVE CRAWFORD, cosponsor, expressed strong support for the bill. He shared personal experiences from his foster parenting of dealing with dental issues because of the sugar content of sodas.

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

REPRESENTATIVE LYNN, cosponsor, said he thinks mixed messages are being sent to school children when health classes teach good nutrition but schools don't support this teaching because they have vending machines. He said when children come to school, the school is acting "in loco parentis" and needs to support health. He added that he doesn't think sports programs should be funded by bringing in unhealthy food and drinks to the schools.

Number 1381

STEVE CLEARY, Executive Director, Alaska Public Interest Research Group (AkPIRG), testified:

I was following this bill last year, when, I believe, it didn't get a committee hearing. So when I saw it come back up again this year, I was excited to see that there are bipartisan cosponsors and an effort to get it going in the House. I'm really excited about it.

I did see a couple of good additions in there, talking about food items that derive more than 35 percent of their calories from fat - so addressing some of the concerns about having other things than soda that are unhealthy as well, ... encompassed in this bill.

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

Number 1282

MARIE LAVIGNE, Executive Director, Alaska Public Health Association, said she represents over 200 members across Alaska who are committed to sound health policy and improving the public's health. She said the bill requests an important public health strategy that uses both policy and environmental change to improve health outcomes for children. It directs schools and their vendors to offer healthful and nutritious beverages and food selections in lieu of sugar- or caffeine-filled soda and junk food. These are important components in public health strategies underway to address childhood obesity, oral health, and sound nutrition.

MS. LAVIGNE noted that also of concern is that teenagers are consuming a large portion of their daily calories and nutrition from soda and junk foods. She reported, "Our pediatricians report many teens experience calcium and iron deficiencies, as well as concerns with excessive calories and weight gain. Our

dentists show concerns for the oral health of children, one of the largest consumers of soda in recent history." She asked that children be allowed to make the healthiest choices, while allowing schools to continue to generate revenue from vendor sales. She remarked, "We applaud Representative Kapsner for bringing this bill forth and for continuing the public dialog on this issue."

MS. LAVIGNE pointed out that schools are often used by sports teams, especially in rural communities, later in the evenings than 5 p.m. Removing the time of day would allow vendors to stock healthier products for all of its sales, she suggested. She closed by saying:

Please keep in mind that our schools provide the total learning environment for developing and practicing lifelong behaviors. Healthy schools, defined as those that support good nutrition and physical activity, are part of the total learning environment that produce healthy students. Ensuring that healthy snacks and foods are provided in vending machines, in school stores, and other venues within the school's control helps to reach this goal.

Schools nationwide that have made these changes offer very exciting success stories, demonstrating that students will buy and will consume healthy foods and beverages when those options are tasty, easily accessible, and priced right. House Bill 80 is a step in the right direction.

Number 1153

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

MS. LAVIGNE replied that there were some fruit-juice blends and water, and that the machines were generating a lot of money. She also said some schools have chosen, on their own, to look at making policy changes. She remarked, "Certainly, school boards may choose to make policy decisions. Every time they make a contract with their vendor, they can activate some of those choices already. What this does is looks at a comprehensive change across all schools in Alaska."

Number 1085

JULIAN NAYLOR, M.D., Alaskan Diabetes Consultant, Alaska Native Medical Center, testified:

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

One of the first questions I ask them is, "How much soda pop are you drinking?" Especially in the rural areas of Alaska, it is amazing how much soda kids can take in one day. This is a huge source of empty calories, and it's driving, I believe, in part, the obesity epidemic that we are seeing in our young children and our teenagers.

In Alaskan Native people, the rates of diabetes are going up tremendously. We actually, in Indian country, have the highest rate of increase of diabetes of any of the Indian nations around the country, and it's of great concern to us. And there's no question, it links into obesity, and when obesity starts at a young age, it leads to obesity as an adult and increases the incidence of diabetes. I really believe ... [in] decreasing the soda pop consumption. ... Several studies ... have shown that this does impact, positively, weight gain in young people.

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

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

Number 0939

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

Number 0913

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

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

Young Americans have increased their annual soft-drink consumption from 27 to 44 gallons between the '70s and the '90s. And further, they are eating about 400 more calories a day than they did just in the mid-'80s. And they don't make up for it with additional exercise. The combination of these two things really has an impact. There's a direct correlation between what we put in our bodies and how heavy we weigh.

Number 0809

MS. APP continued:

This also corresponds with, from the '70s to the present, the placement of vending machines in schools. I don't think that there's probably a person among us, either testifying or listening to the testimony today, that can recall that, as a young kid, we had vending

machines. I'm 32, and I know I didn't have vending machines as a child. This is a new phenomenon. You can track vending machine placement with the rise in obesity. We have, in essence, surrounded our children with bad choices and unhealthy choices. I think that this bill is a good step forward in terms of looking at what very simple choices we can make in offering healthier choices.

There's one other statistic I'd like to share with you. About 60 percent of overweight children have at least one high-risk factor for heart disease by age 10. This is high cholesterol or high blood pressure. This is amazing. ... We have children at age 10 who are obese who are demonstrating that they are good candidates to have heart disease. I can't tell you how disturbing this is to the American Heart Association, and to see that this trend nationwide and in Alaska is getting worse and worse. This bill is a good step in the right direction.

Number 0769

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

MS. APP responded that her interpretation of the bill was that it would allow diet pop, which isn't necessarily a healthful option but does have a lower calorie content. She said it does contain aspartame and other carcinogens with serious side effects.

Number 0536

SHELLEY McLAUGHLIN-TRUE, Dental Hygienist, Haines, testified:

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

Not a week goes by that I don't see one child, probably more, totally "blown out." It's a very distinctive decay, right at the gum line. They come

in and it's ... neglect, it's lack of education. The place for education is in the school. And I really do believe that these machines don't have a place in the school. We should be consistent with the message that we are giving. I don't think that this is a problem that is in one socioeconomic group only. I see it with very wealthy kids and I see it in the villages, all over the place.

It's a very important issue. Dental hygienists have been fighting this in the schools, ... trying to get these machines out of the schools. And unless there is something that says they can't be there, we lose because those machines make lots of money. They support sports; they support drama classes; they support trips out of town, and those trips out of town are very important to the schools. I think they need to find another way to do it.

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

Number 0380

CHAIR ANDERSON announced that public testimony would be kept open and that HB 80 would be held over.

HB 450-INSURANCE & WORKERS' COMPENSATION SYSTEM

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

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

Number 0271

PAUL LISANKIE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development, presented the bill, noting that he would focus on the areas that impact the Alaska Workers' Compensation Act and would defer to Linda Hall [director of the Division of Insurance, Department of Community & Economic Development] on portions that address insurance issues. He said he'd focus on three primary goals.

MR. LISANKIE pointed out that although he'd previously advised the committee that there wouldn't be any change in benefits now payable under the Alaska Workers' Compensation Act, he would clarify one minor change to this statement later in his testimony.

Number 0172

MR. LISANKIE said, second, this bill would formally establish a Division of Workers' Compensation and a position of director of workers' compensation. He holds this position, he noted, although no authority in the Alaska Workers' Compensation Act established this position or gave it particular oversight authorities for the workers' compensation program. He related that most responsibilities of the program aren't in the hands of the Alaska Workers' Compensation Board; there are a number of things the division director and the division do to implement the board's powers. This bill would formally establish the

position and give the director responsibility over a number of areas that are, right now, formally in the hands of the Alaska Workers' Compensation Board.

MR. LISANKIE informed the committee that, third, this bill attempts to reorganize and streamline the process of resolving disputed benefit claims, and to do the same to the initial appeal process for those disputes. This would result in a speedier decision-making process, and more consistent and predictable decisions. The overall goal is to have a more stable insurance environment in terms of the insurance market. This bill would help do that by invoking a new Workers' Compensation Appeals Commission, which would replace the current Alaska Workers' Compensation Board.

**TAPE 04-12, SIDE A**

Number 0032

MR. LISANKIE explained that most changes in the bill implement provisions that would replace the Alaska Workers' Compensation Board with this new commission and with new hearing officers and a new formalized division and director of workers' compensation. He pointed out that the sectional analysis shows a reassignment of functions that already exist in the Alaska Workers' Compensation Act. Because there are a multitude of references to the board in the current Act, changing the board necessitates a lengthy bill.

MR. LISANKIE referred to the change in the bill that would impact benefits. He explained that, currently, weekly compensation benefits are paid at a certain basic rate. If someone moves to a different locality outside of Alaska, the division "is tasked with having a company that calculates cost-of-living differences between Alaska - I believe it's keyed to Anchorage - and to wherever the residency of this person is now."

Number 0190

MR. LISANKIE referred to Section 86, which proposes putting a cap on any cost-of-living adjustments that go up. The cap would be based on the in-state rate. There would be a comparison of the cost of living in the new area of residence with the cost of living in Alaska. The result would be that no one would get a compensation rate exceeding what is paid to a resident of Alaska. He informed the committee that this was the only change to the benefit package in any of the 58 pages of the bill.

MR. LISANKIE explained that Section 10 establishes a director of the Division of Workers' Compensation and outlines the director's responsibilities. The director would be responsible to the commissioner of the Department of Labor and Workforce Development for the overall execution of the duties and responsibilities of the Alaska Workers' Compensation Act and also would be responsible for adopting regulations to implement the Act.

Number 0491

MR. LISANKIE pointed out his division's ongoing efforts to stop uninsured employers from operating without the required insurance. Currently, a statute in the Alaska Workers' Compensation Act requires that all employers either self-insure or, more commonly, get insurance coverage through an insurer that's approved for writing workers' compensation liability insurance in Alaska. There is an issue when employers fail their responsibilities to keep insured.

MR. LISANKIE reported that, at present, there is a criminal provision that is rarely invoked because of its requirements to get a criminal prosecution. There is also a more commonly invoked provision whereby the investigator locates an employer that is knowingly operating without the required insurance, gives an accusation, and calls the employer in front of the Alaska Workers' Compensation Board to answer. He described two common outcomes. The employer admits to being previously uninsured and having employees, but no longer is in operation. This circumvents a stop-work penalty from being effective. More commonly, the employer admits to being previously uninsured, but is currently insured. Again, there is no reason to invoke a stop-work order, since the employer is now properly insured.

Number 0544

MR. LISANKIE surmised that the new provision would give a powerful new tool to the division to pursue uninsured employers by imposing a fine of up to \$100 a day for each uninsured employee. He found 180 employers that were proven to be operating without insurance listed in the last annual report, he said. The total number of employees that received coverage as a result was 2,000. He projected that if this penalty were put in place, it could result in substantial revenue. He noted that the primary goal would be to support a zero-tolerance policy. He continued:

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

Number 0654

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

MR. LISANKIE noted that he was aware of that bill and that it was possible it could be combined. He reiterated that the current Alaska Workers' Compensation Board would be replaced by a Workers' Compensation Appeals Commission. After the current board hears disputed claims, they are initially appealed to the superior court. He said the new commission would replace the superior court as the site of that initial appeal. It would also employ hearing officers to do the initial decision making that is currently done by the board hearing panel. He gave the reasoning, saying the Alaska Workers' Compensation Act was amended at least twice, in 1988 and 2001. He explained:

The statutory intent language called for interpretation of the Act to ensure quick, efficient, fair, and predictable delivery of benefits to injured workers, at reasonable cost to employers. This is designed to address those concerns of fairness and predictability.

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

HB 450 passes into law] the commission would hear the appeal and instead of the board hearing panel, there would just be a hearing officer that would do that initial claim. It would go to the appeal's commission, which would be made up of three commissioners who are appointed by the governor, confirmed by the legislature, based on their experience and expertise in workers' compensation law. ... The final stage would continue to be the Alaska Supreme Court, as it is now.

Number 0904

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

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

REPRESENTATIVE CRAWFORD asked for clarification:

So rather than going through this board, where you have multiple voices, you would just have one voice that could be slanted either way. And then, from that point forward, you have to pay your own bills. So that would preclude any injured worker that I know from being able to "take it home" past that. I know ... when I was injured, on workers' comp, I had to go back to work way before I was healed because I couldn't afford to live on the \$259 a week that I was getting. I couldn't even walk right when I went back out on a construction site. So how in the world would I be able to pay for a lawyer to appeal it?

Number 1000

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

MR. LISANKIE replied:

Right now there ... is a provision that ... if you get an attorney, your attorney works on a contingency [fee basis], and if you prevail, then your insurer is ...

ordered to pay. ... Under this new bill, if the ... injured worker is not represented by counsel and they are dissatisfied with the decision from the hearing officer, the director of the division ... would be empowered to file an appeal on their behalf. ... So, that would actually be an improvement as far as that goes. That is going somewhat in the direction of getting representation without having to pay for it.

REPRESENTATIVE GATTO commented that "empowered is not required." He asked whether that is correct.

MR. LISANKIE replied that he didn't want to comment in case he would mislead the committee.

Number 1113

CHAIR ANDERSON announced that public testimony would remain open and that HB 450 would be held over.

#### **ADJOURNMENT**

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