

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 25, 2004

3:25 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Vice Chair
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Tom Anderson, Chair
Representative Nancy Dahlstrom

COMMITTEE CALENDAR

HOUSE BILL NO. 428

"An Act relating to civil liability for acts related to obtaining alcohol for persons under 21 years of age or for persons under 21 years of age being on licensed premises."

- MOVED HB 428 OUT OF COMMITTEE

HOUSE BILL NO. 430

"An Act relating to employees under 21 years of age in the premises of hotels, restaurants, and eating places that are licensed to sell, serve, deliver, or dispense alcoholic beverages."

- MOVED HB 430 OUT OF COMMITTEE

HOUSE BILL NO. 402

"An Act relating to fees for the inspection of recreational devices, for certificates of fitness for electrical wiring and plumbing, for filing voluntary flexible work hour plans, and for licenses for boiler operators; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 428

SHORT TITLE: CIVIL PENALTY: UNDERAGE ALCOHOL PURCHASES
SPONSOR(S): REPRESENTATIVE(S) MEYER

02/04/04 (H) READ THE FIRST TIME - REFERRALS
02/04/04 (H) L&C, JUD
02/25/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 430

SHORT TITLE: EMPLOYEES UNDER 21 AT LICENSED PREMISES
SPONSOR(S): REPRESENTATIVE(S) KERTTULA

02/04/04 (H) READ THE FIRST TIME - REFERRALS
02/04/04 (H) L&C, JUD
02/25/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 402

SHORT TITLE: LABOR & WORKFORCE DEVELOPMENT FEES
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/28/04 (H) READ THE FIRST TIME - REFERRALS
01/28/04 (H) L&C, FIN
02/25/04 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE KEVIN MEYER
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as sponsor of HB 428.

O.C. MADDEN, Owner
Brown Jug
Anchorage, Alaska
POSITION STATEMENT: Testified in support of HB 428.

DOUGLAS B. GRIFFIN, Director
Alcoholic Beverage Control Board
Department of Public Safety
Anchorage, Alaska
POSITION STATEMENT: During hearing on HB 428, testified in support of efforts to combat underage drinking, saying the bill could be an effective tool for that; testified in support of HB 430.

CINDY CASHEN
MADD Alaska Chapters [Mothers Against Drunk Driving]
Juneau, Alaska

POSITION STATEMENT: Testified that her organization supports HB 428.

REPRESENTATIVE BETH KERTTULA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 430.

AURORA HAUKE, Staff
to Representative Beth Kerttula
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 430 on behalf of Representative Kerttula, sponsor.

HERB FREER, Owner
The Broiler Restaurant
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 430.

GREG O'CLARAY, Commissioner
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Presented HB 402 on behalf of the governor and answered questions.

GREY MITCHELL, Director
Division of Labor Standards & Safety
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Answered questions relating to HB 402.

ACTION NARRATIVE

TAPE 04-18, SIDE A

Number 0001

REPRESENTATIVE NORMAN ROKEBERG called the House Labor and Commerce Standing Committee meeting to order at 3:25 p.m. Representatives Rokeberg, Lynn, Crawford, and Guttenberg were present at the call to order. Representative Gatto arrived as the meeting was in progress.

HB 428-CIVIL PENALTY: UNDERAGE ALCOHOL PURCHASES

REPRESENTATIVE ROKEBERG announced that the first order of business would be HOUSE BILL NO. 428, "An Act relating to civil

liability for acts related to obtaining alcohol for persons under 21 years of age or for persons under 21 years of age being on licensed premises."

Number 0085

REPRESENTATIVE KEVIN MEYER, Alaska State Legislature, sponsor of HB 428, testified:

This bill is a good example of private industry working with [nonprofits] to help the whole community and the state without any government intervention. What this bill does is allow civil action of up to \$1,000 to be applied against an adult who is trying to buy [alcohol] for people under age 21, and also allows for a civil fine up to \$1,000 for kids who try to get an adult to buy alcoholic beverages for them "underage."

This bill was actually brought to my attention by the Anchorage Assembly and by Brown Jug liquor [store]. I think Brown Jug is on line to testify. The Anchorage Assembly has passed this bill, and when I was on the Anchorage Assembly, we passed a similar bill to this for kids who tried to use fake IDs [identification]. Then allowing ... Brown Jug and Chilkoots to take action, I guess, up to \$1,000. This one goes specifically for the adults who are buying for the kids, and/or kids who are trying to get adults to buy for them.

Number 0203

REPRESENTATIVE MEYER continued:

[House Bill 428] ... is a combination of Brown Jug working with nonprofits because the \$1,000 fine that these kids or adults are assessed will be waived, if they agree to go to this intervention training, which is about a 16-hour training. I think what we're going to hear today from Brown Jug - who is, for the most part, the only liquor licensee who is using this particular program - is that a lot of people are taking advantage of that, which is a good thing. Now they are getting education from MADD [Mothers Against Drunk Driving], as well as (indisc.), and Brown Jug.

The success of the program has been very good in Anchorage, and you will hear from Brown Jug that they have had over 900 cases that they have actually brought against kids or adults.... You've probably heard of the "hey mister" where a kid is trying to "tag down" someone to go buy beer for them.

[Representative Rokeberg], you in particular are aware of this, that this is a problem - adults buying for minors. ... I think you brought it up to the felony level, which is where it belongs. Unfortunately, 40 percent of the time, kids are still able to get people to buy booze for them. Theoretically, you could be sitting at the 7-Eleven [convenience store] lot and every third person you ask will still buy booze for you.

Number 0337

REPRESENTATIVE MEYER continued:

Programs like this help in the sense that it's all done on the civil side; it's outside the criminal side. A person doesn't even have to be prosecuted on the criminal side for the Brown Jug or other liquor licenses to take civil action against these folks. Almost all of [the fine] is waived, up to \$700, if they agree to go to the training put on by these various nonprofits.... All this is being done without any government intervention and, because of that, I've asked for your support on this.

Frankly, we just don't have enough police officers in this state to enforce the laws that we have, especially the liquor laws. The more private industry that we can get helping us, like Brown Jug, who is willing to go after these adults and kids who are trying to buy [alcohol], the better off our whole community and, I think, our state will be.

REPRESENTATIVE ROKEBERG clarified that he did not make [the violation of law that Representative Meyer had referred to in his testimony, minor in possession] a felony; he changed it from a violation to a misdemeanor.

REPRESENTATIVE MEYER stated he had referred to buying for a minor as being a felony.

Number 0427

REPRESENTATIVE ROKEBERG turned the gavel over to Vice Chair Carl Gatto.

REPRESENTATIVE LYNN asked for clarification on the types of penalties that would come into effect with the passage of this bill.

REPRESENTATIVE MEYER replied that a criminal penalty applies for an adult buying a minor alcoholic beverages and a civil penalty would apply if this bill passes. He also noted that it's difficult to prove the felony, but less difficult to prove the civil case. He stated:

They catch these guys on camera, or they catch the kids out in the car waiting for the adults to come back out and hand the booze to them. A lot of times, that alone is enough for them to take civil action. Again, I think you'll hear that rather than paying the \$1,000 civil action, the adult who is buying for the kids will just go through this intervention training program put on by MADD, and (indisc.), and other nonprofits.

REPRESENTATIVE LYNN asked if the licensee could suffer civil damages.

Number 0573

REPRESENTATIVE MEYER replied:

If you knowingly sold to a minor, it could be pretty severe penalties to the liquor establishment that does that. Again, Brown Jug would be better to say. In my experience on the assembly, if that happened, there's a good chance that their license would not get renewed, and, of course, economic heartache.

What happens here is that Brown Jug could go ahead and take the civil action of up to \$1,000, which the court lets them do now. The Anchorage Assembly has already passed this. This is law, a municipal ordinance in Anchorage. They could keep that full \$1,000, but their intent is not to make money off of this program. Their intent is to educate - especially these young

kids, the minors, who are trying to get the booze - of the harmful effects, or potentially harmful effects, of drinking underage.

They are also trying to teach the older people who are buying for the kids that you should not do that. They don't make any money in the process. In fact, they are waiving \$700. I imagine they probably keep \$50 or \$100 there just for their administrative costs to file the civil suit. The rest goes to the nonprofits to put on the 16-hour [program].

Number 0680

O.C. MADDEN, Owner, Brown Jug, Anchorage, testified:

We approached Representative Meyer with this bill because it's been so effective here in Anchorage. I've had requests from other parts of the state wondering when something like this was going to be available for them to use. I got a request from a licensee in Fairbanks, in particular, after they read an article in the paper about the program we'd instituted in Anchorage. We decided we would approach Representative Meyer and see if he would sponsor this.

What the problem is that we're seeing is (indisc.) percent of the people are approached by total strangers in the parking lot to buy alcohol for minors. We deal with those sorts of situations on a regular basis. What we look for, we've put together some profiles of people that like to buy for minors, or profile transactions that we look for. We conduct surveillance with trained security personnel, then intervene in these matters, and conduct interviews with the people involved to determine if they are actually purchasing for minors. If they are, we proceed from there.

Number 0725

MR. MADDEN continued:

We've determined there's basically three types of people, three categories of people, that buy for minors. There's the friends and siblings, that sort of thing. Public inebriates make up a big group,

[since it's] easy to get them to buy for minors. Then, disturbingly, we find a pretty substantial number of the people we arrest for these crimes are sex offenders with minors, and they're purchasing alcohol for them.

We're using this right now in conjunction with Akeela [House], Mothers Against Drunk Driving, and STAR [Standing Together Against Rape]. We will waive \$700 of the civil penalty if they will go ahead, sign up, and successfully complete these classes. We're getting a really good response right back. Virtually all of the kids have signed up for the classes. We've got a few adults that have not signed up for the classes. One, I believe, is incarcerated and a couple others, we're going to actually go through the whole process, and go after the civil penalty and small claims with them....

Number 0796

MR. MADDEN continued:

Representative Meyer made reference to 900 cases. We've had over 900 cases of fraudulent ID seized. We've got a little over 120, I think, so far, in the last couple of years, of these third-party purchases that we proceeded in.

VICE CHAIR GATTO asked Mr. Madden to explain how he is able to profile his customers.

MR. MADDEN replied:

What we look for is a profile situation. ... The perfect profile situation would be a car that's parked behind the building, when there's parking available directly in front of the door. There are minors in the vehicle, and there's an adult in the store that's buying multiple products. He's got a six-pack of Budweiser, a four-pack of wine coolers, a bottle of this, a bottle of that. He's clearly buying for more than one person, and the vehicle is parked in such a manner that it's pretty suspicious. Those are the type of situations that we see where we initiate interviews.

Number 0920

DOUGLAS B. GRIFFIN, Director, Alcoholic Beverage Control Board ("ABC" Board), Department of Public Safety, testified that he thought this bill could be an effective tool in combating underage drinking and that the ABC Board was supportive of any efforts to advance that goal.

Number 0979

CINDY CASHEN, MADD Alaska Chapters [Mothers Against Drunk Driving], representing the Anchorage, Fairbanks, Mat-Su and Juneau Chapters of MADD, testified that her organization supports HB 428. She stated:

We support House Bill 428, as it will assist in the prevention of underage drinking. Representative Meyer's bill will provide a tool to Alaskan liquor licensees, and empower responsible businesses to participate in community policing. Each week in Alaska, courtrooms hear from our teens who are able to successfully obtain alcohol that they were able to get it from shoulder taps or, like Representative Meyer called them, "Mister Wouldyas". Basically, they [underage youth] go up and say, "Mister, would you buy me some booze?" [They do this] often for little or no cost at all. I have sat in those courtrooms and listened to teen after teen, and the judges usually question where did they get the alcohol. They say, "I don't know" or "It was someone walking into the store." They'll ask how much did it cost, and [the underage youth will] say "\$5," "nothing," "\$1."

I have the Alaska youth risk-behavior study from 2003, in which 42 schools from 19 districts with 2,175 completed questionnaires were handed in. According to the YRBS [Youth Risk Behavior Survey], 38.7 percent of teenagers who completed this survey claimed that they had at least one drink in the 30 days prior; 26.5 percent claimed that they had binged, that they had consumed five or more drinks within a couple of hours in the 30 days prior to the survey. It's pretty high; it's over 45 percent of the students who completed this survey.

In comparison, 29.9 percent of Alaskan adults reported binge drinking one or more times in the past month.

The kids are right up there with the adults, already. This survey also showed that 23.2 percent of Alaska high school students had their first drink of alcohol before the age of 13.

House Bill 428 will deter those who might otherwise consider contributing to Alaska's minor-consuming problem, and punish those who feel it's a right of passage, or they're going to do it anyway. Providing alcohol to minors results, as you all know, in senseless tragedies: drunk driving, burglaries, assault, rape, death by alcohol poisoning - I could go on and on.

This is a good bill, and like Representative Meyer said, it doesn't involve government, there's no cost to it, and it's empowering members of our community. We strongly support [HB 428], and we're glad to see that the Brown Jug brought it before Representative Meyer.

Number 1146

VICE CHAIR GATTO mentioned an experience that he had while teaching in a classroom, which involved a drunken student.

MS. CASHEN responded:

The studies show that people who begin drinking at an early age are four times more likely to become alcoholics or have serious alcohol problems. So, the longer we can keep them from drinking, the better. I want to add that this summer I received a phone call from an employee of a successful liquor store in Juneau. He had been employed there, and currently is, for over a decade. He was frustrated because they are having the same problem that Brown Jug sees, and there was nothing they could do. He wanted to know if there was anything that MADD knew of that could empower them to stop [the problem].

Usually, it was older, about 21- to 25-year-old-men, who were purchasing alcohol for young, teenage girls. The girls would be parked across the street, exactly as Mr. Madden described. They would even accuse the person, and sometimes they were brave enough to kick the person out who was attempting to buy [alcohol].

The guy would just say, "I'm just going to go buy it somewhere else." This [bill] would make a big difference.

Number 1251

VICE CHAIR GATTO said, "If it was just because the kids got drunk, that would be one issue, but sometimes they trade sexual favors for this, and then the consequences are forever."

REPRESENTATIVE LYNN moved to report HB 428 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 428 was reported from the House Labor and Commerce Standing Committee.

HB 430-EMPLOYEES UNDER 21 AT LICENSED PREMISES

VICE CHAIR GATTO announced that the next order of business would be HOUSE BILL NO. 430, "An Act relating to employees under 21 years of age in the premises of hotels, restaurants, and eating places that are licensed to sell, serve, deliver, or dispense alcoholic beverages."

Number 1327

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor, stated that her staff, Aurora Hauke, would introduce HB 430 on her behalf.

Number 1348

AURORA HAUKE, Staff to Representative Beth Kerttula, Alaska State Legislature, testified:

This bill deals with the employment of people under 21 in hotels and restaurants that are licensed to serve alcoholic beverages. Currently, 16-, 17-, and 18-year-olds can work in these establishments with permission of their parents. They need to get a work permit signed. 19 and 20-year-olds do not need parental permission.

This bill would allow 18-year-olds to work without parental permission as well, since they have reached the age of majority. They would still not be able to deal with the alcohol, as nobody under 21 would be able to. This change would correct some of the

deterrents that 18-year-olds have in finding gainful employment in restaurants. It has been pointed out, that it would increase the prospective labor pool as well for employers.

REPRESENTATIVE ROKEBERG asked for clarification on page 1, lines 6-14.

MS. HAUKE replied:

The first page, line 6 through 14, used to say "between 16 and 19", meaning 16-, 17- and 18-year-olds. This is the section that requires them to get a work permit. On page 2, the section lines 2 through 6 is the portion where they don't need a work permit. What we've done is moved the 18-year-olds from the first paragraph to the second paragraph.

Number 1517

Douglas B. GRIFFIN, Alcoholic Beverage Control Board ("ABC Board"), Department of Public Safety, testified:

There's plenty of protection, we believe, for underage people. We are dealing with the 18-year-olds. The way that language -- I don't think bill drafters do that "between 16 and 19" anymore. That probably was an in-artful way of drafting that language. For the most part, I'm glad that's being removed. But we are looking at focusing on 16- and 17-year-olds: [they] would still be required to have written parental consent to get a work permit from the Department of Labor and Workforce Development. We work with that department, and if paperwork is in order when we do inspections of licensed premises that do employ underage people, we do make sure that that paperwork is in order.

This really does focus on just that very narrow segment of 18-year-olds. We have run across some instances and cases where 18-year-olds are out on their own. They really have no connection with parents, and to secure parental permission sometimes is difficult because they are out of state, their parents are in another state, or whatever. So, we do believe that they are basically adults for most things, except for purchasing tobacco and alcohol.

But for a lot of other things in terms of being able to enter into contracts, and being treated as adults for purposes of being able to exercise their right to vote, and many other things, they are adults.

We think that there are still plenty of protections. In light of the bill that the committee has just heard from Representative Meyer, there's still plenty of protection to prevent access to alcohol by underage persons. This bill does clean up a little anomaly that exists between our alcoholic beverage laws and the laws for the Department of Labor [& Workforce Development].

We think that this is a good fix, a good change, that it won't create any more opportunities for underage abuse of alcohol in these work situations.

MR. GRIFFIN completed his testimony by giving background on the restaurant-like environment required for underage employment.

VICE CHAIR GATTO asked if Mr. Griffin got complaints from people about the working or dining environments.

MR. GRIFFIN replied:

An area that's clearly a bar, where there really isn't much food, that's a no-brainer. You're always going to have a few, sort of, on the cusp. We do things like segregate where people can work, that the underage person can work in the dining room, in the kitchen, for example.... We do try to keep them out of that setting that would appear, to the most reasonable people, to be a bar.

MR. GRIFFIN, in response to a question from Vice Chair Gatto, said his inspectors do work with owners and let them know what is needed to be in compliance.

Number 1830

HERB FREER, Owner, The Broiler Restaurant, Juneau, testified in support of HB 430. He gave an example from his hiring experience of an 18-year-old who had come through the foster care system, no longer had a legal guardian, but could get no one to sign his work permit. He stated that the law needed to be changed.

REPRESENTATIVE ROKEBERG asked Mr. Freer if he had a beverage or beer and wine license.

MR. FREER replied he had a beer and wine license.

REPRESENTATIVE LYNN commented that HB 430 made common sense.

REPRESENTATIVE ROKEBERG commented that the statutes appeared to be "the government and the Department of Labor [& Workforce Development] protecting the workforce from itself, and I'm glad to see this bill come forward."

Number 2004

REPRESENTATIVE ROKEBERG moved to report HB 430 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 430 was referred from the House Labor and Commerce Standing Committee.

HB 402-LABOR & WORKFORCE DEVELOPMENT FEES

VICE CHAIR GATTO announced that the final order of business would be HOUSE BILL NO. 402, "An Act relating to fees for the inspection of recreational devices, for certificates of fitness for electrical wiring and plumbing, for filing voluntary flexible work hour plans, and for licenses for boiler operators; and providing for an effective date."

Number 2044

GREG O'CLARAY, Commissioner, Department of Labor & Workforce Development, presented HB 402 on behalf of the governor and answered questions. He also introduced Grey Mitchell, Director of the Division of Labor Standards & Safety, who would be available for questions. Commissioner O'Claray testified:

Mr. Gatto, I'm here protecting the workers against themselves, as indicated in the prior bill.... With respect to this particular bill, I am following the administration's belief that users of these services should bear a portion of the cost. This bill you have before you delineates some additional increases in fees for various certificates and activities undertaken by the department, on behalf of those folks that are accessing the services ...

Number 2128

REPRESENTATIVE ROKEBERG asked if this bill was a revenue-raising device and questioned, "Why are we increasing these fees on the workers of Alaska?"

COMMISSIONER O'CLARAY stated:

We are increasing some fees on some workers, commensurate with the cost to the department to perform the services. Our main approach here is to try to make some of these services we provide cost-neutral to state government, except in one particular case, and that is the \$100 fee for the filing of flex plans, the increases are pretty much commensurate with inflation and (indisc.).

REPRESENTATIVE ROKEBERG said he was glad Commissioner O'Claray had pointed that out.

Number 2189

REPRESENTATIVE CRAWFORD recalled testimony in years past regarding inspections and there being a problem with having an adequate number of inspectors. He asked if raising the fees as proposed in HB 402 would allow for an increase in inspectors.

Number 2300

GREY MITCHELL, Director, Labor Standards & Safety, Department of Labor & Workforce Development, testified:

The costs to operate the mechanical inspection program include inspections for boilers, inspections for electrical systems, plumbing systems; all come from one account. Right now, there is insufficient revenue in that account to fund some of the positions that we currently have, and to fund our needs in terms of electrical inspections.

Right now, we only have one electrical inspector for the state, and with the additional revenues that this bill creates, we plan to create a statewide electrical inspection force, if you will. Right now, we have a vacancy that we're keeping open in Juneau ... because we don't have the revenue to pay for that position. We're planning on filling that position and

establishing a new position, which you will see in the fiscal note, which we plan to station in Fairbanks. That way, we'll have ... statewide coverage because right now, we have an inspector in Wasilla.

REPRESENTATIVE LYNN asked for clarification on how the funds resulting from the fees would be accounted for.

MR. MITCHELL replied:

This question gets to be a bit complicated. I'm not a financial wizard in the workings of the state. As I understand it, there's a statute that creates authority for revenues that are produced through inspections to be deposited into a "subfund" in the general fund. It's not statutorily designated or protected, so to speak. It's off on its own in a separate pot to allow for some more, I don't know, credibility in how those funds are used.

... If you're going to charge people for a service, a lot of times they want to know that those funds are going to be used for their benefit. If we're talking about ... fees for boilers, those people who are being charged a fee want to know that they're going to get adequate services in boiler inspection.

In this case, where we're increasing fees for certificates-of-fitness, the primary revenue generator, we're talking about enforcing the certificate of fitness requirements for electricians and plumbers throughout the state. Those groups are people who currently have those certificates [and] tend to support that kind of approach. So, I don't know if I've explained it.

REPRESENTATIVE LYNN said, "This fund is in the general fund; it doesn't really have a fence around it."

MR. MITCHELL stated that was correct.

VICE CHAIR GATTO noted that the University of Alaska has tuition that goes directly back to the university, unlike these funds that go into the general fund but are held "harmless."

TAPE 04-18, SIDE B
Number 2374

MR. MITCHELL stated: "As I understand it, this is a portion of the general fund; it's part of a sub account within the general fund."

COMMISSIONER O'CLARAY added, "Actually, it's called a building safety account."

Number 2364

REPRESENTATIVE ROKEBERG referred to the sectional analysis of HB 402:

In Section 2 it says you have a \$200 fee for a license as a boiler operator. In the sectional [analysis] it says \$200 for a three-year license. Is that what it says in the statute? It doesn't say anything in the bill about three years.

MR. MITCHELL replied, "The three-year license duration is in regulation."

REPRESENTATIVE ROKEBERG stated:

That's not good - not if you want to change it for the statute and don't even have a term of it in the statute. That's not a very good idea, is it? From a bureaucrat's standpoint, you don't care, but from a legislative [standpoint], I guess we care. It's easier for us to fix a statute than it is a regulation. I guess I have a concern about that.

[In the] Section 3 language, are there certificates of fitness? I'm trying to see what they relate to. It's Chapter 62, certificates of fitness, and then in the fiscal note it says this is for both mechanical and electrical inspectors. So, it seems to me, your sectional [analysis] says you are redoing building code inspections in non-municipal areas without building inspectors now, both electrical and mechanical inspectors.

Number 2270

MR. MITCHELL replied that the jurisdiction for state laws, with respect to plumbing and electrical work, is statewide. He stated that his division does not generally do the inspections

within municipalities where there are inspectors to perform those inspections.

REPRESENTATIVE ROKEBERG asked if his division was doing them outside the municipalities.

MR. MITCHELL replied that was correct.

REPRESENTATIVE ROKEBERG requested clarification about the division's building inspections in non-organized areas.

MR. MITCHELL replied, "Generally, the codes only apply to certain types of projects. Residential projects are excluded. I believe it's anything more than a four-plex."

REPRESENTATIVE ROKEBERG asked for clarifications about the certificates of fitness. He said:

I'm kind of confused because you're talking about, in the sectional [analysis] here, having mechanical and electrical inspectors, and here, you're charging the journeymen and apprentices in that program to increase their fees. I don't get it.

COMMISSIONER O'CLARAY replied:

In the sectional [analysis], we're indicating where the revenue is being generated from, and what it's intended to be used for. In the bill itself, the adjustment to the fees is an increase from the current \$160 to \$200 for the certificate of fitness for journeymen level for, I believe, it's both of those, electricians and plumbers.

REPRESENTATIVE ROKEBERG stated:

I guess I'm not getting it. If building code inspections for larger commercial style, above four plex buildings, are we not charging for those inspections sufficiently to offset the cost of those services?

COMMISSIONER O'CLARAY replied, "Apparently not. The raising of this fee will generate sufficient revenue for us to."

REPRESENTATIVE ROKEBERG asked if this bill covered all trades; did all journeyman trainees have to acquire certificates of fitness, regardless of their trades?

COMMISSIONER O'CLARAY replied:

Under the statutes, a journeyman electrician, in order to practice his or her trade in the state of Alaska, or a journeyman plumber, must be certified or have a certificate of fitness issued by the (indisc.), which means they have to meet certain criteria....

REPRESENTATIVE ROKEBERG asked if anyone from organized labor was going to testify.

VICE CHAIR GATTO noted that the one witness from organized labor had exited the room.

REPRESENTATIVE ROKEBERG stated that he was concerned and said, "It seems to me, if I was a member and had to have a certificate of fitness, I'd be upset about this."

MR. MITCHELL replied:

These fees have been paid for a number of years by electricians and plumbers who are certified in their trades. The last time these fees were increased was in 1993. We have seen increases in our costs, and this program is not just the inspections, there's also the testing of the applicants and the issuing of the certificates.

[Due to technical difficulties the remaining log numbers on this tape are not available.]

REPRESENTATIVE ROKEBERG stated:

You're telling me you need to increase their fees because of the other work you're doing? You're actually charging people to perform a trade and using it for other purposes. This is a tax on the worker here for you to do your work. There's no connection between building inspections and a certificate of fitness that a worker is buying here. There's no connection between these other activities or granting examinations. There's an examination fee right here. I don't get it. I've heard people in the labor force

that, frankly, complain about this. They say, "What the heck are we paying this fee for - it's a nuisance fee, it's a tax on workers." It's just as bad as a business license.

MR. MITCHELL responded:

They're not just inspections that are being paid for out of this, although I believe the workers in the trade, by and large, would support those inspections, because they want to make sure that the work is being done to the level that they aspire to perform that work to. These workers have to go through an intense training program and show that they have developed a certain number of hours - thousands of hours - in the trade, before they can qualify to take this test to get this certificate that allows them to hold this journeyman license.

The people who go out and do the inspections also make sure that the people who are doing the work have that level of credential, that they have put in their dues, so to speak.

REPRESENTATIVE GATTO asked for clarification of the certificate of fitness: "Has it got to do with a license? Has it got to do with a permit? Is there another word that would clarify it?"

MR. MITCHELL responded that the term "license" would be clearer.

REPRESENTATIVE ROKEBERG asked, "Are you telling us, Mr. Mitchell, that the certificates of fitness, they are issued biannually, is there a requirement for continuing education or anything else to be reissued on a biannual basis?"

MR. MITCHELL replied there was a continuing education requirement for electricians but not for plumbers, at this time.

REPRESENTATIVE ROKEBERG asked: "Isn't the certificate more like a driver's license since there are no criteria for a reissuance of a certificate for plumbers?"

MR. MITCHELL replied that this was correct and said:

The difference from a driver's license is that the DMV [Division of Motor Vehicles] does not put enforcement people out on the street to check for driver's

licenses. Our inspectors are those enforcement people who check to make sure that the people in the trades are credentialed to do the work.

REPRESENTATIVE ROKEBERG said:

Let me understand this, then. Someone works thousands of hours and years to work through the apprenticeship program, become a journeyman, and he's reached that level. You give him a certificate, but then he's got to go every two years to get another certificate when he's already reached that level of education. Then you're going to charge him for this privilege. You're taxing him every two years for this privilege to pursue his trade. I don't get it.

VICE CHAIR GATTO noted that school nurses were required to take certain certifications and credits, and were also required to pay the fee for accreditation. He asked if that example was not similar.

REPRESENTATIVE ROKEBERG noted that Representative Gatto's example was about continuing education, but that the plumbers in Alaska don't have to have any continuing education [but are required to have certificates of fitness].

MR. MITCHELL noted:

In this case, the difference is that there are two functions being performed by the Mechanical Inspection section based on this fee income. These are not fees being charged to building owners for inspections. The entire cost of this program, which includes a public safety element to make sure that work is performed to code, and a certificate-of-fitness enforcement element, is basically all being funded out of this fee. Historically, it's been working that way. We haven't really had a lot of complaints from the industry on this.

VICE CHAIR GATTO asked if there had been complaints from building owners and, if so, how many.

MR. MITCHELL said he had not received any of those kinds of complaints.

REPRESENTATIVE CRAWFORD asked if it was the intent of this bill to increase the number of electrical inspectors in the state.

MR. MITCHELL replied:

The fiscal note reflects that we are adding one position ... and that would be an electrical inspector position. We also have an electrical inspector position that we've been forced to maintain vacant, because our revenue-generating ability in mechanical inspection has been limited to a point where we can't fill it because we don't have the money to do it. There are two positions that have been maintained vacant to cover these shortages, and it's to do with increased costs, shifting of costs, from other departments, lease costs, all kinds of different costs have been laid upon the Mechanical Inspection section in the last year. [This is so] Especially because we have just recently gone to this new formula for funding the program, completely out of the building safety fund. There is no general fund in this program; the entire program is funded out of the fees that are charged for the services that are provided out of the program.

REPRESENTATIVE GUTTENBERG asked how many certificates of fitness had been issued.

MR. MITCHELL responded that there are approximately 6,000 certificate-of-fitness holders in this state. He said [the division] is adding one position, and it planned to use the additional revenue [generated by HB 402] to fill a vacant position and the position it had requested in its fiscal note. He said this would result in three plumbing inspectors and three electrical inspectors for the state.

REPRESENTATIVE GUTTENBERG wondered why there was a need for someone to inspect a certificated worker's work, since the worker had thousands of hours of experience and a reputation to maintain. He asked how many inspections the division did a year.

MR. MITCHELL replied approximately 400 inspections per year were done by each inspector. He noted that the inspectors found numerous code violations during inspections that needed correction.

VICE CHAIR GATTO offered the example of a fire extinguisher that was out of compliance with codes.

REPRESENTATIVE ROKEBERG asked whether or not there were fees charged for building inspections in this state.

MR. MITCHELL clarified that the Mechanical Inspection section does not charge fees for the inspections it performs in the electrical and plumbing areas.

REPRESENTATIVE ROKEBERG asked if mechanical inspectors were making retro-inspections.

MR. MITCHELL clarified that the Mechanical Inspection section houses all of these inspection functions. The electrical inspections and the plumbing inspections do not have fees associated with them.

REPRESENTATIVE ROKEBERG responded, "So we are charging workers for inspection fees that building owners should be paying...."

MR. MITCHELL replied:

I suppose that it could be characterized that way. There is a fee in the statute for plumbing inspections, but it has not been addressed by the legislature for many years, and it's just not something that we have charged because municipal plumbing inspectors charge their own fees for plan reviews and inspections, and we just haven't gotten into that area for charging for those inspections. It's been working pretty well as it is.

TAPE 04-19, SIDE A

Number 0041

REPRESENTATIVE GUTTENBERG asked who inspects recreational or amusement rides.

MR. MITCHELL replied that that function was performed by employees of the Mechanical Inspection section who have received certifications for those particular inspections.

REPRESENTATIVE ROKEBERG stated:

Section 1, you're charging an inspection fee. In Section 3, we're not. We're charging the worker for

inspections.... According to the sectional analysis here, \$100 fee for "each voluntary flexible work hour plan that the employer files with the department". This means that if you request that one worker in your small business wants to have a flex work plan, wants to do a 4-10 deal on your one little, simple form, which I'd say that the department easily approves, that you're going to charge the business \$100 for that?

MR. MITCHELL replied, "Yes, that's the plan."

REPRESENTATIVE ROKEBERG expressed concern, saying, "I don't like this at all.... I've got a lot of problems with this section."

Number 0188

MR. MITCHELL noted that the one-time fee would be paid by the employer, not the employee. He said it did not seem onerous for an employer to pay \$100 for a plan that increased workplace efficiency in the business. He also provided one clarification: "If an employer has less than four employees, then they would be exempt from overtime anyway, and a flexible-hour work plan would not be required."

Number 0282

REPRESENTATIVE GUTTENBERG asked how often a business had to reapply for a flex plan.

MR. MITCHELL replied:

The only time an employer would need to reapply is if they were changing their plan. Once the employer identifies what the hours of work are to be, and gets that approval, then the process allows that to be a master, which then can be used, at the employer's discretion, with any employee that wants to join into that plan. The statute does allow for the employee to voluntarily participate in the plan. Once the employee agrees to participate in the plan, then they are stuck to that, except for an opt-out period each year, which is a one-month period. If an employee decides that they don't want to do that, they're stuck with it, except for that one period when they can get out of it.

VICE CHAIR GATTO noted that a flow chart could have helped clarify what he thought was a confusing fee schedule.

Number 0473

REPRESENTATIVE ROKEBERG stated that the bill affects the fee schedule for the working people of Alaska. He proposed holding the bill over so they have a chance to testify and "see if it's OK with them that their fees will be raised for landlords to have free building inspections." He added, "Then I won't make an amendment to strip out Section 4, yet. We can wait for that. Maybe the department can do a little research on this."

Number 0526

VICE CHAIR GATTO stated that he would hold HB 402 over and asked:

When it is up for review, I would appreciate seeing a flow chart ... to help us identify those things [discussed today]. It would be up to the individuals here. If the public wants to testify, then that's certainly their option. If you want to recruit people, that's fine. It would be good to get some public testimony.

VICE CHAIR GATTO went on to note areas of confusion: "Who's paying the fee - the owner, or is it being paid by the employee, and are these fees being paid twice?" [HB 402 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:41 p.m.