

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

March 29, 2004

3:27 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Carl Gatto, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 467

"An Act establishing an Alaska Commemorative Coin Commission to develop the design concepts and to make recommendations regarding the final design of the Alaska quarter under the 50 States Commemorative Coin Program Act; and providing for an effective date."

- MOVED CSHB 467(STA) OUT OF COMMITTEE

HOUSE BILL NO. 275

"An Act relating to veterinarians and animals."

- MOVED CSHB 275(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 323

"An Act relating to the care of and cruelty to animals, and to reports of suspected child abuse or neglect by persons who have a duty to investigate animal cruelty, abuse, or neglect."

- SCHEDULED BUT NOT HEARD [incorporated into CSHB 275(L&C)]

PREVIOUS COMMITTEE ACTION

BILL: HB 467

SHORT TITLE: COMMEMORATIVE QUARTERS COMMISSION

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/16/04 (H) READ THE FIRST TIME - REFERRALS
02/16/04 (H) STA L&C
03/19/04 (H) STA AT 8:00 AM CAPITOL 102
03/19/04 (H) Moved CSHB 467(STA) Out of Committee
03/19/04 (H) MINUTE(STA)
03/24/04 (H) STA RPT CS(STA) 6DP
03/24/04 (H) DP: BERKOWITZ, COGHILL, LYNN, SEATON,
03/24/04 (H) GRUENBERG, WEYHRAUCH
03/24/04 (H) LETTER OF INTENT WITH STA REPORT
03/24/04 (H) FIN REFERRAL ADDED AFTER L&C
03/29/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 275

SHORT TITLE: VETERINARIANS AND ANIMALS
SPONSOR(S): REPRESENTATIVE(S) CHENAULT

04/17/03 (H) READ THE FIRST TIME - REFERRALS
04/17/03 (H) L&C, RES
02/20/04 (H) L&C AT 3:15 PM CAPITOL 17
02/20/04 (H) <Bill Hearing Postponed>
03/29/04 (H) L&C AT 3:15 PM CAPITOL 17

BILL: HB 323

SHORT TITLE: CRUELTY TO ANIMALS
SPONSOR(S): REPRESENTATIVE(S) CRAWFORD

05/15/03 (H) READ THE FIRST TIME - REFERRALS
05/15/03 (H) L&C, JUD
02/20/04 (H) L&C AT 3:15 PM CAPITOL 17
02/20/04 (H) <Bill Hearing Postponed>
03/29/04 (H) L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

JOSH APPLEBEE, Staff
to Representative Tom Anderson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: As staff to the sponsor, answered questions
about HB 467.

SHARALYN WRIGHT, Staff
to Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Introduced HB 275 on behalf of the sponsor,
Representative Chenault.

CAROL GIANNINI, Staff
to Representative Crawford
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions about HB 275.

ANNE CARPENETI, Assistant Attorney General
Legal Services Section-Juneau
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Testified about potential legal issues arising from HB 275.

DIANE ZARFOSS
Alaska Society for the Prevention of Cruelty to Animals
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 275.

CHRIS HEINTZ, Volunteer
Alaska Equine Rescue
Sterling, Alaska

POSITION STATEMENT: Testified in support of HB 275.

ALLEN STOREY, Lieutenant
Central Office
Division of Alaska State Troopers
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Requested that HB 275 provide authority for peace officers to seize and, if necessary, destroy animals, independent of consulting with a veterinarian.

SALLY CLAMPITT, President
Alaska Equine Rescue
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 275, and suggested changing the term "recklessly" to "knowingly".

BARBARA BRINK, Director
Public Defender Agency
Department of Administration
Juneau, Alaska

POSITION STATEMENT: During hearing on HB 275, spoke of possible effects on the legal system and anticipated increased costs.

KRISTIN RYAN, Director
Division of Environmental Health
Department of Environmental Conservation
Juneau, Alaska

POSITION STATEMENT: Testified that Version S of HB 275 would significantly decrease the fiscal note.

TIM COLBATH, Founder
Alaska's Extended Life Animal Sanctuary
Nikiski, Alaska

POSITION STATEMENT: Testified in support of HB 275.

ACTION NARRATIVE

TAPE 04-35, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:27 p.m. Representatives Anderson, Dahlstrom, Lynn, Rokeberg, Crawford, and Guttenberg were present at the call to order. Representative Gatto was excused in advance of this meeting.

HB 467-COMMEMORATIVE QUARTERS COMMISSION

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 467, "An Act establishing an Alaska Commemorative Coin Commission to develop the design concepts and to make recommendations regarding the final design of the Alaska quarter under the 50 States Commemorative Coin Program Act; and providing for an effective date." [Before the committee was CSHB 467(STA).]

Number 0050

CHAIR ANDERSON, sponsor, explained that HB 467 follows the federal authorizing legislation called the "50 States Commemorative Coin Program Act." Annually over a ten-year period from 1999 through 2008, the U.S. will issue coins with state designs displayed on the reverse side. Each state could design, develop, and submit a design representative of the state. A quarter honoring the State of Alaska is scheduled to be issued in 2008. This bill establishes an 11-member Alaska commemorative coin commission, which will have the following members: six public members appointed by the governor, one of whom is chosen from a list submitted by the Alaska State Council

on the Arts; one student in an Alaskan public or private or home secondary school; one member who is a resident of and appointed from each of the four judicial districts; a majority and minority member from each body of the legislature, appointed by the presiding officers from the House of Representatives and the Senate; and the governor or his/her designee.

CHAIR ANDERSON said the Office of the Governor will initiate a public process to solicit narrative design concepts for the quarter. The commission shall review and consider all these concepts and submit to the United States Mint not fewer than three and not more than five. When the mint provides the State of Alaska with its final designs, the commission will review the designs and make final recommendations to the governor.

CHAIR ANDERSON referred to the effective date of January 1, 2005, and explained that this follows the guidelines set by the U.S. Mint to begin the design process 24 months prior to the beginning of the year in which the quarter will be released. He suggested this is timely because there will be two years to prepare. He said the calendar year in which the Alaska quarter is to be issued will coincide with events leading to celebration of the 50th anniversary of Alaska statehood. He noted that he'd sponsored another bill, HB 476, to try to get a commission to coincide with the coin commission.

Number 0323

CHAIR ANDERSON, in response to Representative Dahlstrom, clarified that if the committee did not take the responsibility, it would default to the governor. He felt it would be better to have a public process involved in the selection of a design.

REPRESENTATIVE ROKEBERG asked why the commission would have 11 members, which he thought seemed large and unwieldy.

CHAIR ANDERSON indicated he wanted to have a broad perspective with commission members from the arts, schools, judicial districts, and both bodies of the legislature.

REPRESENTATIVE ROKEBERG asked why it would be necessary to have legislative members on the commission.

CHAIR ANDERSON replied that there was interest and experience in the legislature. He also said this number is comparable to similar commissions he'd reviewed.

Number 0521

REPRESENTATIVE DAHLSTROM said she thought it a good idea and supported the uneven number of commission members.

REPRESENTATIVE GUTTENBERG read from the bill, page 2, beginning at line 4, "A Citizens Commemorative Coin Advisory Committee and the United States Commission of Fine Arts will review the designs and make recommendations." He asked if it was Chair Anderson's understanding that these entities would review the design separately or together.

CHAIR ANDERSON surmised that the review would be done separately.

REPRESENTATIVE GUTTENBERG noted that the governor would make the final recommendation and the U.S. Secretary of the Treasury would make the final approval. He asked if this was a new process or similar to previous ones.

CHAIR ANDERSON replied that he thought it was similar. He said he felt that without this bill, the governor would create a commission and select staff. He wanted this authority to be under the discretion of the House.

REPRESENTATIVE GUTTENBERG asked if "narrative design concepts" had been done by other states.

CHAIR ANDERSON deferred to Mr. Applebee.

Number 0645

JOSH APPLEBEE, Staff to Representative Tom Anderson, Alaska State Legislature, responded that when the Act was first implemented it was discovered that some designs were unworkable for coinage. The Act was amended to request that states submit thematic narratives or design narratives. The mint creates the actual design, he noted.

CHAIR ANDERSON commented that there is a small fiscal note attached to HB 467, since the governor's office said it would require a range 14, half-time position for two years to administratively support the commission. In response to Representative Rokeberg, he noted [that on page 2, line 1, it says three to five] designs would be submitted.

REPRESENTATIVE ROKEBERG surmised that the cost would be \$10,000 to \$15,000 per design just for administrative support, since the fiscal note indicated a total of \$82,300 over two years.

CHAIR ANDERSON explained that part of the expenditures were for travel. He said this bill supports an important process.

REPRESENTATIVE ROKEBERG agreed.

Number 0835

REPRESENTATIVE DAHLSTROM moved to report CSHB 467(STA) out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE ROKEBERG objected for purposes of discussion. He recommended that the House Finance Committee consider removing the legislative members and allowing the governor to appoint two members, lowering the total to nine. This might decrease the fiscal note and make the financing more manageable. He thought the bill was a good one, but questioned who should be on the commission and the total cost for getting the job done. He also suggested the legislature, through its "leadership money," could subsidize the legislative members and lower the full cost of the proceedings. He said he supported having the other members, previously mentioned, on the committee.

REPRESENTATIVE ROKEBERG withdrew his objection.

Number 0911

CHAIR ANDERSON, hearing no further objection, announced that CSHB 467(STA) was reported from the House Labor and Commerce Standing Committee.

HB 275-VETERINARIANS AND ANIMALS

[Contains discussion of HB 323, which was incorporated into HB 275, Version S]

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 275, "An Act relating to veterinarians and animals." [In packets, not yet adopted, was a new proposed committee substitute (CS), Version S.]

Number 0965

SHARALYN WRIGHT, Staff to Representative Mike Chenault, Alaska State Legislature, presented HB 275 on behalf Representative Chenault, sponsor. She introduced Charlie, her pet dog, to the committee. She thanked Representative Crawford's office for being cooperative in "marrying" his bill, HB 323, with this one. Referring to previous legislation that didn't pass, she expressed concern that Alaska has fallen behind in terms of protecting children, animals, and the elderly.

MS. WRIGHT said, on average, one child a day is mauled by a large dog. She expressed concern for starved, abandoned, and abused animals, and said animal abusers turn their anger towards children, the elderly, and the defenseless. She reported that her research over the past four years found that every serial killer and serious child molester or abuser has a direct correlation or relationship to harming small animals in their childhood.

MS. WRIGHT explained that most of HB 275 was written to enable and encourage police officers and veterinarians to investigate and take action against animal abuse. The bill was kept simple so the court system and the Department of Law wouldn't have to attach a large fiscal note, and so the Department of Environmental Conservation could arrive at reasonable standards of care for the state veterinarian. She said the first section of HB 275 defines the minimum standards of care for animals.

MS. WRIGHT referred to page 2, where the investigation procedure and statutes that must be followed in order to seize an animal are delineated. She said page 3, line 11, through page 4, line 15, allows for the destruction, reclamation, and adoption of the seized animal.

Number 1336

REPRESENTATIVE ROKEBERG moved to adopt the proposed CSHB 275, Version 23-LS0940\S, Luckhaupt, 3/29/04. [No objection was stated, and Version S was treated as adopted.]

CHAIR ANDERSON expressed frustration that this somewhat lengthy proposed CS had just been presented to the committee.

MS. WRIGHT explained that Version S combines HB 275 with Representative Crawford's bill, HB 323. Resuming her analysis, she said page 4, lines 16-20, should be omitted in order to avoid legal problems resulting from authorizing employees of various departments to act as police officers. Page 4, lines

21-22, defines an animal. Page 4, line 23, through page 5, line 27, defines cruelty to animals in the first degree and allows for penalties. Page 5, line 29, through page 6, line 31, defines animal cruelty in the second degree. Pages 4-6 are essentially Representative Crawford's descriptions and definitions of cruelty to animals in the first and second degree, unchanged, with the exception that Representative Chenault's office took out reference to "department".

MS. WRIGHT turned to page 7, Section 5, which defines the people and persons in the performance of their occupational duties with respect to [paragraph] (8). [Section 5] clarifies exactly who should report child abuse if animal abuse or suspected animal abuse is found. She noted the high likelihood that if an animal is being abused, a child is being abused. She pointed out that her office had taken a lot of political "heat" on this provision and had received many phone calls as there had been a misunderstanding.

REPRESENTATIVE GUTTENBERG referred to page 7, line 13, requesting a definition of "practitioners of the healing arts".

MS. WRIGHT replied that this definition is outlined in statute and that she'd been legally advised to use this phrase.

Number 1540

REPRESENTATIVE LYNN referred to page 4, line 29, where it says, "(3) kills a dog or cat for the purpose of preparing or serving the animal for human consumption". He pointed out that in some cultures this is a common practice, and questioned Ms. Wright about the consumption of a cat or dog in a survival situation.

MS. WRIGHT suggested the survival of a human being over the survival of an animal would be a commonsense call.

REPRESENTATIVE LYNN commented that Americans have a cultural bias about this issue.

REPRESENTATIVE GUTTENBERG questioned the provision that says a person who commits cruelty to animals in the first degree if the person kills or injures an animal by the use of a decompression chamber. He wondered about the history of this provision.

MS. WRIGHT replied that this provision was already in statute. She deferred the historical question to Representative Crawford's office.

[Chairman Anderson passed the gavel to Representative Rokeberg.]

Number 1675

CAROL GIANNINI, Staff to Representative Crawford, Alaska State Legislature, agreed with Ms. Wright that the aforementioned provision is in statute now. However, "I'm told that it doesn't happen anymore," she related.

Number 1701

REPRESENTATIVE ROKEBERG drew attention to what became Conceptual Amendments 1, 2, and 3, contained on a one-page amendment titled "Conceptual Amendment and Clean Up Language." That document read [original punctuation and spelling provided]:

Page 2 line 28 Seizure a of and lien of animals.
Remove "and lien on."

Page 2 line 9 remove "department" and insert the State Veteranerian as employed by any Department in State of Alaska.

Page 4 line 16 and 17 omit "certain department employees as peace officers"

REPRESENTATIVE ROKEBERG suggested the three sections of the foregoing amendment be treated separately, as Conceptual Amendments 1, 2, and 3. He asked about Conceptual Amendment 1, relating to page 2, line 28.

Number 1740

MS. WRIGHT responded that she knew of no lien being placed on an animal. She said there is a possible case before the court by the ASPCA [American Society for the Prevention of Cruelty to Animals] in Anchorage. A mechanism other than a lien can be used, she said, and someone who sues for recovery of damages or costs when taking care of a seized animal can get a renewable judgment. The aforementioned is easier, she opined, to collect upon than a lien, which adds costs for the court and the recorder's office and causes more conflict and aggravation. She said she thought it better for the owner to give up ownership of an animal, if ordered to do so by the court, or to pay the caregiver of the animal up front without being sued.

MS. GIANNINI added:

Actually, the lien language is not in this version. It was in our original bill. We provided that an agency, the state, a person who took care of an animal, automatically had a lien against that animal. Part of that was because of the bonding provisions ... that we envisioned in here. This conceptual amendment in terms of this CS is appropriate because the lien language has been removed, and it fixes the title [of Section 03.55.120].

Number 1833

REPRESENTATIVE CRAWFORD moved to adopt Conceptual Amendment 1 [text provided previously]. There being no objection, it was so ordered.

Number 1850

REPRESENTATIVE ROKEBERG read Conceptual Amendment 2, relating to page 2, line 9 [text provided previously].

MS. WRIGHT explained that the state veterinarian, previously employed at the Department of Natural Resources, is now employed at the Department of Environmental Conservation. This amendment allows for movement of that position.

Number 1892

REPRESENTATIVE GUTTENBERG moved to adopt Conceptual Amendment 2. There being no objection, it was so ordered.

Number 1921

REPRESENTATIVE ROKEBERG read Conceptual Amendment 3, relating to page 4, lines 16-17 [text provided previously, with a verbal correction saying it goes through line 20]. He said Ms. Wright had previously spoken to this change [to omit "certain department employees as peace officers"].

Number 1930

REPRESENTATIVE GUTTENBERG moved to adopt the foregoing Conceptual Amendment 3. There being no objection, it was so ordered.

Number 1970

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, noted there was no referral of HB 275 to the House Judiciary Standing Committee and so she wished to testify about the impact of the bill here. Directing attention to page 5, lines 1-2, she said:

This is cruelty to animals in the first degree, which is a class A misdemeanor. This provides that ... if the person who owns or is responsible for the care of an animal recklessly fails to provide minimum standards of care for the animal under AS 03.55.100, which is added in this bill on the first ... and second pages -- and that's a concern to ... us because we're concerned that this is vague. ...

That section that it cross-references says that a person is required to provide medical care to an animal at times and to the extent necessary to ... maintain the animal in good health. And ... that one sticks out particularly in my mind as something that ... people of good will who take good care of their animals ... can disagree on.

MS. CARPENETI related that she has friends who'd send their dog to a special clinic down south if it got sick, whereas she wouldn't choose to do this with her pet. She was concerned about this bill making it a crime not to meet standards. She referred to a provision in current law, AS 11.61.140(a)(2), which addresses the problem of negligent care of an animal. She suggested substituting that provision for what was in paragraph (5).

MS. CARPENETI noted that her second concern was taken care of with the deletion of "peace officer". However, another concern relates to page 3, lines 11-12, which changes the law to require a peace officer first to consult with a veterinarian before destroying an animal. There are some places in the state where that would be difficult, she pointed out.

REPRESENTATIVE ROKEBERG asked Ms. Carpeneti to review the current statute, AS 11.61.140.

MS. CARPENETI noted that subsection (a)(1) prohibits knowingly inflicting severe physical pain or long suffering on an animal. She said that's included in the new bill. She explained that

paragraphs (1) and (2) are current statute; paragraphs (3) and (4) are new. She said paragraph (5) [page 5] is cause for concern because it cross-references the standards of care which, for a criminal prosecution, are not clear enough. Substituting present law, (a)(2), for paragraph (5) would provide the needed clarity.

REPRESENTATIVE ROKEBERG asked if there were affirmative defenses available under the current statute.

Number 2190

MS. CARPENETI replied affirmatively but wasn't sure if they were identical. She pointed out that the second-degree provisions are new.

REPRESENTATIVE ROKEBERG observed the small fiscal note from the Department of Law's civil section and asked if Ms. Carpeneti was representing that section.

MS. CARPENETI replied that she was representing the criminal division, which didn't anticipate a fiscal note.

Number 2241

DIANE ZARFOSS, Alaska Society for the Prevention of Cruelty to Animals, testified that her organization had been pushing for this bill for many years. She felt combining HB 323 and HB 275 worked well. She alluded to the many examples of animal abuse, saying that at one point she had been asked by the district attorney's office to bring them some laws so they could prosecute. She applauded the fact that this bill would increase authority for state troopers and district attorneys, and offered her belief that there was no fiscal note. This bill is desperately needed, she opined.

REPRESENTATIVE ROKEBERG pointed out that the fiscal notes amount to over \$850,000. He suggested Ms. Zarfoss check with the sponsor for further information.

CHAIR ANDERSON asked why the bill wasn't referred to the House Judiciary Standing Committee instead of the House Resources Standing Committee.

MS. WRIGHT said she hadn't made those decisions.

REPRESENTATIVE ROKEBERG opined that combining the two bills had resulted in this route.

Number 2350

REPRESENTATIVE DAHLSTROM said, as chair of the House Resources Standing Committee, she intended to request that HB 275 be waived from that committee so it could be sent to the House Judiciary Standing Committee.

TAPE 04-35, SIDE B

Number 2352

CHRIS HEINTZ, Volunteer, Alaska Equine Rescue, told members she has provided foster care for animals for the past 20 years and is in total agreement with HB 275. She said her organization has been involved with a case of abused horses for the past 18 months. She thought it would be easier for prosecutors to do their job, and easier to get care for suffering and dying animals, if this bill passes. The present law is too vague, she said; she gave the example of animal owners' claiming they didn't have to feed their animals because no law says they must. She said it's time there is a law.

Number 2303

ALLEN STOREY, Lieutenant, Central Office, Division of Alaska State Troopers, Department of Public Safety (DPS), referred to Version Q, page 3, line 11, "Destruction and adoption of animals", noting that Version Q was the latest version of HB 275 that he had. Noting that this section refers to destruction options for animals and requires a veterinarian's direction, he said he felt a previous version of HB 323 had better language, from a law enforcement point of view, since it allowed for a peace officer to make the decision to seize or destroy an animal, alone or in consultation with a veterinarian. He explained that it is difficult at times for an officer to contact a veterinarian due to remoteness; not allowing a peace officer to make this determination independently could prolong suffering for an animal.

CHAIR ANDERSON noted that the committee has Version S. He asked whether Lieutenant Storey thought "may" should be changed to "shall" on page 2, line 29. He questioned to whom an animal would be delivered if it wasn't delivered to "a veterinarian, or to a person, a public or private animal control agency, humane

animal treatment shelter or organization, or other custodial agency".

LIEUTENANT STOREY replied that troopers often coordinate with neighbors, family members, or friends of the owner to care for an animal. He said he didn't think changing the language to "shall" would prevent these types of placements for animals.

Number 2143

SALLY CLAMPITT, President, Alaska Equine Rescue, testified in support of HB 275, saying it was badly needed. She opined that Alaska's current cruelty laws are poorly written and extremely difficult to enforce, and felt HB 275 would overcome these serious issues. She commented, in reference to Ms. Carpeneti's concern about vague legal language, that she felt it was appropriate to reference standards of care and licensed veterinary involvement to interpret what is adequate medical care. She said a veterinarian's involvement in making that determination should be sufficient.

MS. CLAMPITT suggested "recklessly" needed to be changed to "knowingly" because it altered the level of accountability. She opined that it is easy to demonstrate that someone may knowingly fail to do something, but to prove that someone recklessly failed to do something is much more difficult because this implies malice and forethought.

Number 2005

BARBARA BRINK, Director, Public Defender Agency, Department of Administration, noted that she didn't have Version S either. She agreed with Ms. Carpeneti's testimony, saying the present legal definition of cruelty to animals is clear and the proposed changes aren't clear, even with attendant definitions. She'd submitted an indeterminate fiscal note that indicates unknown costs, she pointed out.

MS. BRINK said proposed paragraphs (3)-(7) and the entire "cruelty to animals in the second degree" section criminalize conduct that isn't currently a crime. Abandoning an animal or striking an animal when driving and not immediately stopping and notifying the owner and the appropriate law enforcement agency would be examples of criminal behavior under HB 275. She predicted a significant number of people would be charged under these new criminal provisions, which would cost money.

Number 1923

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), explained that the state veterinarian works within this department and division because his/her primary responsibility is to protect humans from diseases that transfer from animals to humans, for example, rabies, and mad cow disease. Noting that she hadn't seen Version S either, she said she'd need to review this version with the state veterinarian to determine a new fiscal note, since she anticipated significant change.

REPRESENTATIVE ROKEBERG asked Ms. Ryan if she thought the fiscal note would increase or decrease, and inquired where the state veterinarian was currently assigned.

MS. RYAN replied that she thought it would decrease significantly, since DEC wouldn't play a significant role other than drafting regulations to define cruelty. This role contrasts with the previous version of HB 275 that required the state veterinarian to investigate cruelty cases, which resulted in a large fiscal note. She said the state veterinarian, Bob Gerlach, D.V.M., works out of the Anchorage office.

Number 1839

TIM COLBATH, Founder, Alaska's Extended Life Animal Sanctuary, testified in support of HB 275. He opined that, especially with the current amendments, the proposed law would be much better than the current one.

REPRESENTATIVE ROKEBERG paraphrased the following portion of Version S, page 6, line 3, paragraph (2):

while operating a propelled vehicle, knowingly strikes and injures an animal and fails to (A) stop and (B) notify both the owner and the appropriate law enforcement agency;

He asked Ms. Brink if this is too broad and perhaps the distinction between privately owned and publicly owned animals needs to be made. He said he was asking her because she might have to defend a person who had struck an animal.

MS. BRINK said she didn't know, but no distinction is made in this legislation. She informed the committee that 80 percent of people charged in criminal court can't afford private counsel.

She characterized the language in HB 275 as vague, broad, and applying to many situations that might not be intended.

REPRESENTATIVE ROKEBERG asked when the "knowingly" standard applies.

MS. BRINK replied that "knowingly" applies specifically to "strikes" and the driver has a duty to stop.

Number 1654

REPRESENTATIVE GUTTENBERG asked if "knowingly" implies intent or purpose or means accidental.

MS. BRINK responded that there is a legal definition: a person acts knowingly, to a conduct or to a circumstance, when that person is aware that certain conduct is of that nature or that certain circumstance exists. The knowledge of the existence of a particular fact, as an element of an offense, is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist, is unaware of conduct, or circumstance that that person would have been aware of had they not been intoxicated, we presume that they are acting knowingly.

Number 1600

REPRESENTATIVE CRAWFORD began discussion of what became Conceptual Amendment 4. He asked for clarification on page 6, lines 3-4, "and injures an animal". He pointed out that there is no distinction between domestic and wild animals.

MS. BRINK replied that additional specificity in the language would deter litigation. If the intent is to narrow the provisions so not all people hitting all animals are included, then clarification would help.

REPRESENTATIVE CRAWFORD referred to hitting birds while driving as an example and wondered if a conceptual amendment was necessary.

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

Number 1435

REPRESENTATIVE CRAWFORD moved to adopt Conceptual Amendment 4, inserting "domestic" between "a" and "animal" [and deleting the word "an"] on page 6, line 4.

REPRESENTATIVE ROKEBERG objected for purposes of discussion. He asked Ms. Carpeneti if and when a citizen must report striking a wild animal.

MS. CARPENETI said she didn't know and offered to research this, since [the Alaska Department of] Fish & Game might have related regulations.

Number 1320

REPRESENTATIVE ROKEBERG removed his objection.

CHAIR ANDERSON asked that Ms. Wright discuss this with Legislative Legal and Research Services to ensure that changing the language in this bill wouldn't affect regulations that currently cover striking wild animals such as moose.

Number 1305

CHAIR ANDERSON announced that Conceptual Amendment 4 was adopted.

Number 1277

REPRESENTATIVE LYNN offered Conceptual Amendment 5, to change the semicolon to a comma on page 4, line 30, and add the words "except for the emergency survival of a human being".

CHAIR ANDERSON, hearing no objection, announced that Conceptual Amendment 5 was adopted.

Number 1208

REPRESENTATIVE CRAWFORD proposed Conceptual Amendment 6: on page 3, lines 12 and 16, after "peace officer", add "alone or".

CHAIR ANDERSON, hearing no objection, announced that Conceptual Amendment 6 was adopted.

REPRESENTATIVE ROKEBERG referred to the issues of "reckless and knowingly" under the first degree crime in the bill. He asked that the sponsors review this issue and that it be brought up in the House Judiciary Standing Committee, the next committee of

referral. He suggested that those who had testified that this was an issue might use a "knowingly standard" in the second degree offense and keep the "recklessness" in the first degree offense.

Number 1130

REPRESENTATIVE ROKEBERG offered Conceptual Amendment 7, to change paragraph (5), page 5, lines 1-2, as recommended by both the attorney general's office and the public defender's office. He asked if the sponsors were agreeable to this or whether it should be referred to the House Judiciary Standing Committee.

MS. WRIGHT replied that attorneys aren't experts in veterinary care and the only individual who can determine a standard of care is an animal doctor, a veterinarian. She explained that two individuals can differ in their opinions of a standard, but the only expert is a veterinarian.

REPRESENTATIVE ROKEBERG said they were discussing legal standards that concern prosecutors and defenders: whether the current standard is criminal negligence and whether that should be maintained, and whether or not the minimum standards are the criteria. He recommended that this discussion continue in the House Judiciary Standing Committee.

Number 0963

REPRESENTATIVE DAHLSTROM moved to report CSHB 275, Version 23-LS0940\S, Luckhaupt, 3/29/04, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 275(L&C) was reported from the House Labor and Commerce Standing Committee.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:46 p.m.