

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

April 23, 2004

3:33 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Nancy Dahlstrom

COMMITTEE CALENDAR

HOUSE BILL NO. 538

"An Act relating to taxes on cigarettes and tobacco products; relating to tax stamps on cigarettes; relating to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes; relating to licenses and licensees under the Cigarette Tax Act; and providing for an effective date."

- MOVED CSHB 538(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 80

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

- BILL HEARING POSTPONED

PREVIOUS COMMITTEE ACTION

BILL: HB 538

SHORT TITLE: TOBACCO TAX; LICENSING; PENALTIES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/18/04	(H)	READ THE FIRST TIME - REFERRALS
03/18/04	(H)	W&M, L&C, FIN
03/24/04	(H)	W&M AT 7:00 AM HOUSE FINANCE 519
03/24/04	(H)	Heard & Held
03/24/04	(H)	MINUTE(W&M)

03/26/04	(H)	W&M AT 7:00 AM HOUSE FINANCE 519
03/26/04	(H)	Heard & Held
03/26/04	(H)	MINUTE(W&M)
03/31/04	(H)	W&M AT 7:00 AM HOUSE FINANCE 519
03/31/04	(H)	Heard & Held
03/31/04	(H)	MINUTE(W&M)
04/02/04	(H)	W&M AT 7:00 AM HOUSE FINANCE 519
04/02/04	(H)	Moved CSHB 538(W&M) Out of Committee
04/02/04	(H)	MINUTE(W&M)
04/07/04	(H)	W&M RPT CS(W&M) NT 4DP 2DNP 1NR 2AM
04/07/04	(H)	DP: SAMUELS, GRUENBERG, WILSON, HAWKER;
04/07/04	(H)	DNP: KOHRING, MOSES; NR: WEYHRAUCH;
04/07/04	(H)	AM: ROKEBERG, OGG
04/21/04	(H)	L&C AT 3:15 PM CAPITOL 17
04/21/04	(H)	Heard & Held
04/21/04	(H)	MINUTE(L&C)
04/23/04	(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

JOHANNA BALES, Excise Audit Manager
 Tax Division
 Department of Revenue
 Anchorage, Alaska

POSITION STATEMENT: Discussed proposed amendments to HB 538 and answered questions.

JOEL GILBERTSON, Commissioner
 Department of Health and Social Services (DHSS)
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 538.

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

POSITION STATEMENT: Answered questions about enforcement during the hearing on HB 538.

ACTION NARRATIVE

TAPE 04-47, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:33 p.m. Representatives Anderson, Gatto, Lynn, Crawford, and Guttenberg were present at the call to order. Representative Rokeberg arrived as the meeting was in progress. Representative Dahlstrom was excused.

HB 538-TOBACCO TAX; LICENSING; PENALTIES

[Contains discussion of SB 368, the companion bill]

CHAIR ANDERSON announced that the only order of business would be HOUSE BILL NO. 538, "An Act relating to taxes on cigarettes and tobacco products; relating to tax stamps on cigarettes; relating to forfeiture of cigarettes and of property used in the manufacture, transportation, or sale of unstamped cigarettes; relating to licenses and licensees under the Cigarette Tax Act; and providing for an effective date." [HB 538 was sponsored by the House Rules Standing Committee by request of the governor; before the committee was CSHB 538(W&M).]

Number 0010

CHAIR ANDERSON reminded members that at the last hearing the committee heard from Joel Gilbertson, commissioner of the Department of Health and Social Services (DHSS); Johanna Bales of the Department of Revenue; and testifiers both in support of and opposition to the bill. Although he'd closed public testimony, he'd asked Commissioner Gilbertson and Ms. Bales to return.

Number 0079

JOHANNA BALES, Excise Audit Manager, Tax Division, Department of Revenue, program manager for the cigarette and tobacco products excise tax, said she was available to explain technical aspects of the proposed amendments as well as the administration's position on those.

CHAIR ANDERSON informed members that also available to answer questions were Larry Meyers, Department of Revenue; and Al Storey, Alaska State Troopers, Department of Public Safety (DPS), who'd been present, though not acknowledged, at the previous hearing.

Number 0166

CHAIR ANDERSON moved to adopt Amendment 1, labeled 23-GH2116\Q.4, Kurtz, 4/23/04, which read:

Page 10, following line 15:

Insert new bill sections to read:

"* **Sec. 25.** AS 43.50.710 is amended by adding a new subsection to read:

(e) Nothing in this section prohibits a manufacturer from offering promotions to a wholesaler or a retailer provided the wholesale promotion is the same for all participating wholesalers and the retail promotion is the same for all participating retailers.

* **Sec. 26.** AS 43.50.720 is amended to read:

Sec. 43.50.720. Sale at less than cost; with gift or concession. In all advertisements, offers for sale, or sales involving two or more items when at least one of the items is cigarettes at a combined price, and in all advertisements, offers for sale, or sales involving the giving of any gift, concession, or coupon of any kind in conjunction with the sale of cigarettes, the wholesaler's or retailer's combined selling price may not be below the actual cost to the wholesaler or the actual cost to the retailer, respectively, of the total of all articles, products, commodities, gifts, and concessions included in the transactions, except that, if any articles, products, commodities, gifts, or concessions are not cigarettes, the actual [BASIC] cost shall be determined as provided under AS 43.50.800.

* **Sec. 27.** AS 43.50.760(b) is amended to read:

(b) The presumptive actual [WHOLESALE AND PRESUMPTIVE RETAIL] cost of cigarettes as determined by the department under AS 43.50.800 [FROM THE MANUFACTURER'S PRICE LIST] is considered competent evidence in a court action or proceeding as tending to prove actual cost to the wholesaler or retailer complained against. A party against whom the presumptive wholesale or presumptive retail cost as determined by the department is introduced in evidence has the right to offer evidence tending to prove any inaccuracy of the presumptive wholesale or presumptive retail cost or any statement of facts that would impair its probative value.

* **Sec. 28.** AS 43.50.770 is amended to read:

Sec. 43.50.770. Determination of cost of cigarettes purchased outside of ordinary channels of trade. In establishing the actual [BASIC] cost of

cigarettes to a wholesaler or retailer, the invoice cost [OR THE ACTUAL COST] of cigarettes purchased at a forced, bankrupt, or closeout sale, or other sale outside the ordinary channels of trade may not be used.

* **Sec. 29.** AS 43.50.790(a) is amended to read:

(a) The department

(1) shall administer AS 43.50.710 - 43.50.849;

(2) may adopt regulations relating to the administration and enforcement of AS 43.50.710 - 43.50.849;

(3) may determine the actual [BASIC] cost of cigarettes to a wholesaler or retailer as provided in AS 43.50.800 [FROM INFORMATION OBTAINED FROM A MANUFACTURER];

(4) may, after reasonable notice and hearing, revoke or suspend a license issued under AS 43.50.010 or 43.50.035 to a person who refuses or neglects to comply with a provision of AS 43.50.710 - 43.50.849.

* **Sec. 30.** AS 43.50.800 is repealed and reenacted to read:

Sec. 43.50.800. Presumptions applicable to determination of cost. (a) The actual cost of cigarettes to a wholesaler is presumed for purposes of AS 43.50.710 - 43.50.849 to be the presumptive wholesale cost as calculated by the department plus an amount equal to four and one-half percent of the presumptive wholesale cost to account for business costs. For purposes of this section, the presumptive wholesale cost is the manufacturer's list price, less trade discounts, plus the full face value of all cigarette taxes.

(b) The actual cost of cigarettes to a retailer is presumed for purposes of AS 43.50.710 - 43.50.849 to be the presumptive wholesale cost as calculated by the department under (a) of this section, plus an amount equal to six percent of the presumptive wholesale cost to account for business costs.

(c) A wholesaler or retailer that wishes to advertise, offer to sell, or sell cigarettes at less than the presumptive actual cost to the wholesaler or retailer as calculated under (a) or (b) of this section must first obtain approval from the department. The department may grant approval only if the wholesaler or retailer provides proof satisfactory

to the department that the wholesaler or retailer's actual cost is lower than presumed. Approval for cigarette sales at less than the presumptive actual cost as determined under (a) or (b) of this section may not be granted for a period longer than one year. In reviewing proof of actual wholesale or retail cost, the department may consider the costs reflected on the actual invoice, but may not consider cash discounts. In reviewing proof of actual business costs, the department may consider the standards and methods of accounting regularly employed, and must include labor costs, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, advertising, preopening expenses, provision for impaired assets and closing costs, interest expenses, and provision for merger and restructuring expenses.

* **Sec. 31.** AS 43.50.740(b), 43.50.849(1), 43.50.849(6), and 43.50.849(7) are repealed."

Renumber the following bill sections accordingly.

Number 0211

REPRESENTATIVE GUTTENBERG objected for discussion purposes.

CHAIR ANDERSON informed members that this was adopted in the Senate Finance Committee [as an amendment to SB 368]. He remarked, "I've been told by one of the facilitators and interested parties who want this amendment that they believe the Department of Administration is not averse to it." He read from the governor's March 16, 2004, transmittal letter, which indicates the intention of reducing cigarette consumption in Alaska by doubling the excise tax to \$2 a pack. He said the governor's expectation is that the resulting price increase for a carton of cigarettes will provide a financial incentive for existing smokers to quit, discourage new smokers from picking up the habit, and restrict access by youth to these products.

CHAIR ANDERSON acknowledged the arrival of Representative Rokeberg. He continued, saying the state's position seems to be that any increase in cost will reduce consumption. Last year, with SB 168, Alaska attempted to join 25 other states with fair-trade laws that prohibit the sale of below-cost cigarettes. Despite the new law, some wholesales and retailers use "predatory pricing practices" to promote the sale of cheap cigarettes. Since there are known, inherent health risks from

tobacco consumption, he said, it is inconsistent with state policy to allow distributors and retailers to promote cigarette sales by using cigarettes as a loss leader.

CHAIR ANDERSON indicated he deduced from this letter that the administration would support an amendment to ban the practice of allowing distributors and retailers to use using predatory pricing schemes to promote the sale of cigarettes. He explained that [among other things] Amendment 1 repeals and reenacts the language in AS 43.50.800 and strengthens existing laws. Asking Ms. Bales to explain the current system and what this amendment might do, he acknowledged she wasn't promoting it, but surmised she wasn't opposing it either.

Number 0420

MS. BALES explained that last year's SB 168 had a provision such that cigarettes cannot be sold below cost. Since the January 1 effective date, some distributors in Alaska haven't been selling below cost necessarily; because of their size, however, their discounts from the manufacturers and so forth tend to be larger than those of other in-state distributors, or their cash flow may enable them to take additional discounts because they can pay earlier, for example. She said:

The way this language was originally written is that you could not reduce the price of your cigarettes by customary discounts for cash. Of the 25 other states that have similar language, ... 65 percent of those states do not allow customary discounts for cash. At the ninth hour of the legislation last session, the customary discounts for cash was thrown into the bill. ... It's a concern for in-state distributors, and ... we understand their concerns and certainly have no disagreement with them on that.

MS. BALES addressed another aspect of Amendment 1 as follows:

Because we do get information from manufacturers, we know what cigarettes sell for. We post a price. If you sell below that cost, we, on a complaint basis, will go out and check to see if there's problems. What ends up happening there is these companies can continue to sell their cigarettes at a low cost before we have a chance to look at it. This amendment would require that they get preapproval from the Department

of Revenue before selling their product below the amount that we post.

CHAIR ANDERSON referred to testimony at the previous hearing by Michael Elerding of Ketchikan, owner of Northern Sales [Company of Alaska, Inc.]. Chair Anderson indicated that Anchorage distributors must contend with those out-of-state distributors as well. He explained that he'd moved to adopt [Amendment 1] to try to bring parity and some balance, and to ensure that everyone has to abide by the same regulatory scheme, since he believes the last-minute amendment [to SB 168] affected local distributors adversely.

Number 0640

REPRESENTATIVE GUTTENBERG informed members that Mr. Elerding had come to his office to outline this problem; he thanked him for bringing this forward. He asked Ms. Bales what criteria have been used by the department to grant the [preapproval].

MS. BALES responded that this expands items that the department would look at and increases the department's ability to request "more and more documentation from a company if we're not comfortable with what they've provided." Businesses all work differently and have different accounting systems; thus this language doesn't specifically outline what they have to provide. Citing an example of a multistate and multinational company that had only provided the costs of operating in Alaska, despite having support from regional headquarters, she opined that requiring prior approval is a good idea because it gives the department more time to get the necessary information.

CHAIR ANDERSON remarked that he'd brought up where [those distributors] live, in Ketchikan and Anchorage, because of wanting to help local folks.

Number 0750

MS. BALES, in response to a further question from Representative Guttenberg, explained:

Any provision that's put in Title 43 is subject to ... the hearing process. So if we tell any business, "No, we're not happy with your information," they have the right to appeal any determination that we made and take it up to an appeals officer and then also take it ... outside to the Office of Tax Appeals [Department

of Administration] and then ... up the chain. ... We will try to identify, as much as we can, but at this time ... we really need to do our homework to figure out how these businesses operate, to make sure that we have regulations that pertain to all the different nuances that come up.

Number 0846

MS. BALES, in response to questions, specified that a cigarette is defined as tobacco rolled in paper. For example, herbal clove "cigarettes" don't contain tobacco or nicotine and aren't taxed.

REPRESENTATIVE GATTO surmised that these other products would be harmful in some way, however.

MS. BALES said she didn't know, but didn't believe they had caught on much.

Number 0920

REPRESENTATIVE GUTTENBERG withdrew his objection.

CHAIR ANDERSON asked whether there was any further objection. There being no objection, Amendment 1 was adopted.

Number 0987

REPRESENTATIVE ROKEBERG moved to adopt Amendment 2, labeled 23-GH2116\Q.2, Kurtz, 4/20/04, which read:

Page 4, line 20:

Delete "the total proceeds of the tax multiplied by the quotient of seven divided by 62"

Insert "8.9 percent of the total proceeds of the tax"

CHAIR ANDERSON objected for discussion purposes.

REPRESENTATIVE ROKEBERG explained that 8.9 percent of the total proceeds of the tax would be in addition to the amount in the education and cessation fund. Recalling testimony at the previous hearing about this, he said there seemed to be a question then with regard to whether 8.9 percent is the correct amount to equal the approximately 8.1 percent, to his recollection, that is the basic floor for the Centers for

Disease Control and Prevention (CDC). He asked Ms. Bales whether this is the accurate figure.

MS. BALES responded that currently the tobacco-use education and cessation fund receives \$4.4 million to \$5 million, depending upon payments to the master settlement agreement (MSA); that fund receives 20 percent of MSA payments, which have fluctuated between \$4.4 million and \$5 million each year. Whereas the bill allocates an additional \$5 million to that fund, the CDC has estimated at minimum that Alaska, based on its population and cigarette consumption, should allocate \$8.1 million to \$8.4 million to the tobacco-use education and cessation fund. She further explained:

What this amendment does is it slightly reduces the amount that's in the original bill. But in total, the 8.9 percent that is in this amendment would direct approximately \$4 million from cigarette-tax revenues that are deposited in the general fund ... to be appropriated to the tobacco-use education and cessation fund. ... With the \$4 million and the \$4.4 million from the MSA, there'd be a total annually of \$8.4 million, which would meet the minimum CDC levels.

Number 1147

JOEL GILBERTSON, Commissioner, Department of Health and Social Services (DHSS), in response to Representative Rokeberg, specified that the administration supports the amendment.

CHAIR ANDERSON removed his objection and announced that Amendment 2 was adopted.

Number 1176

REPRESENTATIVE ROKEBERG moved to adopt Amendment 3, labeled 23-GH2116\Q.3, Kurtz, 4/20/04, which read:

Page 3, lines 7 - 9:

Delete "100 cigarettes imported by an individual for personal consumption during the calendar month or the first"

Page 3, line 9:

Delete "during the calendar month"

Insert "[100 CIGARETTES IMPORTED BY AN INDIVIDUAL FOR PERSONAL CONSUMPTION] during the calendar month"

Page 4, lines 14 - 16:

Delete "100 cigarettes imported by an individual for personal consumption during the calendar month or the first"

Page 4, line 17:

Delete "during the calendar month"

Insert "[100 CIGARETTES IMPORTED BY AN INDIVIDUAL FOR PERSONAL CONSUMPTION] during the calendar month"

REPRESENTATIVE ROKEBERG asked Ms. Bales or Commissioner Gilbertson to address this amendment, saying it is directed in part to a request of the administration.

MS. BALES explained that during hearings in the House Special Committee on Ways and Means, Representative Rokeberg offered an amendment to allow an individual, as discussed last time, to personally carry in 600 cigarettes a month. As the amendment was drafted, however, current language allowing a person to bring in 100 cigarettes remained in the bill. She said the administration has requested removal of that language, since Representative Rokeberg's intention was to have the total be 600, not the 700 that it appears someone could bring in. Thus a person could personally transport in 600 cigarettes each month and there would be no tax on that amount.

Number 1246

REPRESENTATIVE ROKEBERG referred to Section 7, page 3, lines 7-9. He pointed out that Amendment 3 would limit the importation of even the 100 cigarettes currently allowed, unless personally transported. It tightens it up from a 100-cigarette tolerance to a zero-tolerance policy for any importation, including the Internet, but leaves the amendment he'd made previously in terms of the personal transportation of three cartons, which he said was intended to decriminalize activity of people physically bringing in cigarettes for personal consumption. He said his prior amendment speaks to the method of importation only, and the rationale behind the 600 is that it would allow a person to bring in three cartons of cigarettes without becoming a class A misdemeanor subject to up to one year in jail and \$10,000 in fines, "overkill of the worst order."

Number 1330

REPRESENTATIVE GATTO suggested changing "calendar month" to "within any 30-day period" because, for example, someone who wants to get around the restriction could take across a quantity at nearly midnight at the end of a month and then do it again after midnight, defeating the intent.

REPRESENTATIVE ROKEBERG said he wouldn't object to a friendly amendment, although perhaps it could be more difficult to enforce. He indicated the language had been the drafter's choice in order to have a timeframe.

MS. BALES responded that she thinks the calendar month is much easier to enforce. She pointed out that in the example posed by Representative Gatto, the person couldn't bring anything else in for at least another 30 days, at the beginning of the next month.

REPRESENTATIVE GATTO clarified that he was thinking of someone passing through Canada, for example, and taking a one-time opportunity. He suggested perhaps it isn't worth addressing that infrequent activity.

MS. BALES reiterated that having it within a calendar month makes it easier for enforcement and when developing cases, for instance.

REPRESENTATIVE ROKEBERG pointed out a technical problem brought to his attention by the committee aide: line 5 of the amendment [which read "Page 3, line 9"] should say "Page 3, line 10".

Number 1478

CHAIR ANDERSON removed his objection. He announced that Amendment 3 [as amended by the aforementioned technical change] was adopted.

Number 1500

REPRESENTATIVE CRAWFORD [moved to adopt Amendment 4, a four-page amendment that changed the age from 19 to 21 throughout the bill and changed the title to add ", and raising the age for purchase, sale, exchange, or possession of tobacco to age 21"].

CHAIR ANDERSON objected for discussion purposes.

REPRESENTATIVE CRAWFORD explained that since the intention is to reduce consumption of cigarettes and limit the number of young

people who start smoking, he believes raising the age to 21 is a good method. He acknowledged that teenagers might hang around with older youths, but indicated that without access to people who can buy cigarettes legally, youths will have a harder time obtaining tobacco products. He mentioned that his related bill has been languishing in the House Community and Regional Affairs Standing Committee for more than a year.

REPRESENTATIVE ROKEBERG remarked that he didn't particularly care for the amendment, but asked about impacts to enforcement, the history of enforcement, and the effectiveness of current enforcement against underage people.

Number 1606

COMMISSIONER GILBERTSON noted that this question relates to multiple departments. He said DHSS doesn't do enforcement against minors who purchase tobacco products, but does "Synar enforcement" of compliance by retailers, conducting stings by using confidential informants under the age of 19 who are hired by DHSS and accompanied by law enforcement personnel; the young person attempts to buy tobacco products illegally from retail establishments, presenting valid identification that clearly states that he or she is under the legal age to purchase tobacco products.

COMMISSIONER GILBERTSON explained that Synar enforcement relates in part to a federal requirement for SAMHSA [Substance Abuse and Mental Health Services Administration] block grants, which are alcohol- and substance-abuse grants that [the U.S. Department of Health and Human Services] provides to the states. He said:

To receive your full grant, you must be a state that does Synar enforcement, and you must have compliance in your Synar enforcement to receive your full block grant. The requirement is that you cannot have an illegal-sale rate that's greater than 20 percent, which means no more than 20 percent of the time you do the stings on retail establishments can you successfully purchase products for minors.

COMMISSIONER GILBERTSON noted that Alaska had been noncompliant since Synar enforcement began in the late 1990s, with illegal-sale rates to confidential informants in percentages ranging from the low to mid-30s. Therefore, DHSS increased its enforcement efforts and retailer education; he cited "great partnerships" with retailers and distributors with respect to

training the workforce and ensuring there are good protocols in place, through a cooperative and not punitive effort. He added that for 2002 the illegal-sale rate in the stings was 30.2 percent, whereas for 2003 it was down to 10 percent. Mentioning law enforcement by DPS and local law enforcement for purchases outside of the sting effort, he deferred to DPS to respond further.

Number 1740

REPRESENTATIVE ROKEBERG asked for details about block grant money.

COMMISSIONER GILBERTSON explained that if the state is noncompliant, above the 20 percent threshold, the sanction is that the state loses 40 percent of its SAMHSA block grant; for Alaska, that's about \$2 million in substance-abuse grants. However, the U.S. Department of Health and Human Services does allow a state, in lieu of that 40 percent penalty, to "purchase the continued funding of its block grant" by paying a monetary penalty that goes into enhanced enforcement.

COMMISSIONER GILBERTSON, noting that the penalty is cumulative, said Alaska chose for a number of years to instead take the alternative penalty, an increase in general fund dollars for enforcement; perhaps \$800,000 a year was being paid in enhanced tobacco enforcement as a penalty for being above that 20 percent threshold. Now that it's below the threshold for the first time, the state no longer has to pay the penalty and will receive the full SAMHSA block grant. If the legal-sale age were raised and noncompliance increased to above 20 percent again, he said the same situation would arise whereby the state could lose 40 percent of the block grant or would have to invest more money in [tobacco-related enforcement].

REPRESENTATIVE ROKEBERG asked what that would do to funding for enforcement, and whether it would lower it.

COMMISSIONER GILBERTSON replied that more enforcement funding would be needed.

REPRESENTATIVE ROKEBERG asked whether it had been lowered.

COMMISSIONER GILBERTSON said no.

Number 1818

REPRESENTATIVE GUTTENBERG surmised that the concern is that changing the [age] will affect the compliance rate.

COMMISSIONER GILBERTSON acknowledged that he didn't know whether it would do that.

REPRESENTATIVE GUTTENBERG asked whether the concern would be alleviated somewhat if this were done through a phase-in such that someone who now is 18 years old couldn't [purchase tobacco products] until the age of 21, for example.

COMMISSIONER GILBERTSON pointed out that in many states the age is 18 or even lower. He remarked that a staggered increase in the legal-sale age would make it easier for enforcement to "step up and do retailer education," but whatever age the legislature chooses, [DHSS] would work diligently to make sure the state is in compliance with Synar.

Number 1885

CHAIR ANDERSON remarked that even though he supports the bill, for him it comes down to rights and a balance. He said he didn't know whether this [change to age 21] was necessarily appropriate to attach to this bill, and he'd rather see it debated in a separate piece of legislation. He suggested it might bring in more tobacco-industry opposition, and he'd rather see the bill move forward without the change at this juncture.

Number 1920

REPRESENTATIVE LYNN recalled that at 20 years old, he flew the first supersonic interceptor in the U.S. Air Force inventory. He said he didn't smoke then or now, but hated to think he could fly the first supersonic interceptor and yet couldn't buy a cigarette if he wanted to. Now there are many 20 year olds being shot at in Iraq, he noted, who on return wouldn't be able to buy a cigarette.

REPRESENTATIVE ROKEBERG asked Lieutenant Storey for his opinion on Amendment 4 and whether it would add to difficulties in enforcement.

Number 1988

ALLEN STOREY, Lieutenant, Central Office, Division of Alaska State Troopers, Department of Public Safety, said he doesn't believe a large amount of enforcement effort takes place [by

DPS]; it's generally left up to DHSS to do enforcement, although officers may on occasion write citations for underage smoking. He apologized for not having statistical data on how many citations have been written.

Number 2026

REPRESENTATIVE GUTTENBERG asked whether DPS only enforces at the point of sale, then.

LIEUTENANT STOREY replied that he believes citations are written for sales on occasion, but the vast majority are through the DHSS underage-smoking-enforcement unit.

REPRESENTATIVE GUTTENBERG asked what the enforcement level is on the military bases for statutes like this.

MS. BALES answered that, to her belief, the smoking age is 18 on military installations.

REPRESENTATIVE LYNN mentioned military reservations and said he believes those who join up can have the same exemptions [throughout the country].

CHAIR ANDERSON maintained his objection to Amendment 4.

REPRESENTATIVE CRAWFORD said he thinks it's the right thing to do for a number of reasons. He noted that when he was 18 years old, he could buy cigarettes or beer legally; however, that age has been raised to 21, a policy call. He said this is a policy call as well, but one he wouldn't try to make now.

Number 2116

REPRESENTATIVE CRAWFORD withdrew Amendment 4, saying he wants this bill to pass and not be weighted down by this issue.

REPRESENTATIVE GATTO remarked that there is a connection between smoking and drinking; that evidence has been presented showing the two seem to reinforce each other physiologically; and that although Representative Crawford had withdrawn the amendment, he understood its value. However, he said he was glad Amendment 4 was withdrawn because of the merit of the bill on its own.

The committee took an at-ease from 4:15 p.m. to 4:16 p.m.

Number 2178

REPRESENTATIVE CRAWFORD moved to report [CSHB 538(W&M), as amended, out of committee with individual recommendations and the accompanying fiscal notes].

REPRESENTATIVE LYNN objected. He declined to speak to the issue at this point.

A roll call vote was taken. Representatives Rokeberg, Crawford, Guttenberg, Gatto, and Anderson voted in favor of reporting the bill from committee. Representative Lynn voted against it. Therefore, CSHB 538(L&C) was reported from the House Labor and Commerce Standing Committee by a vote of 5-1.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:20 p.m.