

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

April 8, 2003

8:02 a.m.

**MEMBERS PRESENT**

Representative Bruce Weyhrauch, Chair  
Representative Jim Holm, Vice Chair  
Representative Nancy Dahlstrom  
Representative Bob Lynn  
Representative Paul Seaton  
Representative Ethan Berkowitz  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 83

"An Act naming the Sven Haakanson, Sr. Airport at Old Harbor."

- MOVED SB 83 OUT OF COMMITTEE

HOUSE BILL NO. 102

"An Act relating to concealed deadly weapons."

- HEARD AND HELD

HOUSE BILL NO. 81

"An Act relating to motor vehicle emissions; and providing for an effective date."

- MOVED CSHB 81(STA) OUT OF COMMITTEE

HOUSE BILL NO. 161

"An Act allowing expenses of the correctional industries program that may be financed from the correctional industries fund to include the salaries and benefits of state employees."

- MOVED CSHB 161(STA) OUT OF COMMITTEE

HOUSE BILL NO. 93

"An Act relating to boating safety; repealing secs. 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26, 27, and 30, ch. 28, SLA 2000; and providing for an effective date."

- MOVED CSHB 93(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 202

"An Act relating to false information or report."

- BILL HEARING POSTPONED

HOUSE BILL NO. 60

"An Act relating to construction of a legislative hall."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 174

"An Act relating to the state centralized correspondence study program, to funding for educational programs that occur primarily outside school facilities, and to the duties of school boards of borough and city school districts and regional educational attendance areas; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

#### PREVIOUS ACTION

BILL: SB 83

SHORT TITLE: SVEN HAAKANSON AIRPORT AT OLD HARBOR

SPONSOR(S): SENATOR(S) STEVENS G

Jrn-Date	Jrn-Page		Action
02/26/03	0274	(S)	READ THE FIRST TIME - REFERRALS
02/26/03	0274	(S)	TRA, STA
03/04/03		(S)	TRA AT 1:30 PM BUTROVICH 205
03/04/03		(S)	Moved Out of Committee MINUTE(TRA)
03/05/03	0354	(S)	TRA RPT 4DP
03/05/03	0354	(S)	DP: COWDERY, OLSON, THERRIAULT,
03/05/03	0354	(S)	LINCOLN
03/05/03	0354	(S)	FN1: ZERO(DOT)
03/13/03		(S)	STA AT 3:30 PM BELTZ 211
03/13/03		(S)	Moved Out of Committee MINUTE(STA)

03/17/03	0513	(S)	STA RPT 4DP
03/17/03	0513	(S)	DP: STEVENS G, HOFFMAN, DYSON, COWDERY
03/17/03	0514	(S)	FN1: ZERO(DOT)
03/17/03	0534	(S)	RULES TO CALENDAR 3/18/2003
03/18/03	0534	(S)	READ THE SECOND TIME
03/18/03	0534	(S)	ADVANCED TO THIRD READING UNAN CONSENT
03/18/03	0534	(S)	READ THE THIRD TIME SB 83
03/18/03	0535	(S)	PASSED Y18 N- E1 A1
03/18/03	0539	(S)	TRANSMITTED TO (H)
03/18/03	0539	(S)	VERSION: SB 83
03/19/03	0576	(H)	READ THE FIRST TIME - REFERRALS
03/19/03	0576	(H)	TRA, STA
03/19/03	0597	(H)	CROSS SPONSOR(S): LYNN
03/31/03	0722	(H)	CROSS SPONSOR(S): OGG
04/01/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/01/03		(H)	Scheduled But Not Heard
04/03/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/03/03		(H)	Moved Out of Committee MINUTE(TRA)
04/04/03	0767	(H)	TRA RPT 7DP
04/04/03	0767	(H)	DP: OGG, KOOKESH, KAPSNER, KOHRING,
04/04/03	0767	(H)	FATE, HOLM, MASEK
04/04/03	0768	(H)	FN1: ZERO(DOT)
04/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 102

SHORT TITLE: CONCEALED DEADLY WEAPONS LEGAL  
SPONSOR(S): REPRESENTATIVE(S) CROFT

Jrn-Date	Jrn-Page		Action
02/14/03	0215	(H)	READ THE FIRST TIME - REFERRALS
02/14/03	0215	(H)	STA, JUD
02/14/03	0215	(H)	REFERRED TO STATE AFFAIRS
02/19/03	0257	(H)	COSPONSOR(S): GATTO
03/13/03		(H)	STA AT 8:00 AM CAPITOL 102
03/13/03		(H)	Scheduled But Not Heard
03/27/03		(H)	STA AT 8:00 AM CAPITOL 102
03/27/03		(H)	Heard & Held MINUTE(STA)
03/28/03	0688	(H)	COSPONSOR(S): ANDERSON
04/07/03	0830	(H)	COSPONSOR(S): DAHLSTROM, KOTT
04/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 81

SHORT TITLE:MOTOR VEHICLE EMISSIONS INSPECTION

SPONSOR(S): REPRESENTATIVE(S)MEYER

Jrn-Date	Jrn-Page		Action
02/07/03	0148	(H)	READ THE FIRST TIME - REFERRALS
02/07/03	0148	(H)	TRA, STA
03/27/03		(H)	TRA AT 1:30 PM CAPITOL 17
03/27/03		(H)	Moved Out of Committee MINUTE(TRA)
03/31/03	0705	(H)	TRA RPT 1DP 3NR
03/31/03	0705	(H)	DP: HOLM; NR: FATE, KOHRING, MASEK
03/31/03	0705	(H)	FN1: ZERO(ADM)
04/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 161

SHORT TITLE:CORRECTIONAL INDUSTRIES PROGRAM EXPENSES

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
03/05/03	0431	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0431	(H)	STA, FIN
03/05/03	0432	(H)	FN1: (COR)
03/05/03	0432	(H)	GOVERNOR'S TRANSMITTAL LETTER
03/11/03		(H)	STA AT 8:00 AM CAPITOL 102
03/11/03		(H)	Scheduled But Not Heard
04/01/03		(H)	STA AT 8:00 AM CAPITOL 102
04/01/03		(H)	Heard & Held MINUTE(STA)
04/03/03		(H)	STA AT 8:00 AM CAPITOL 102
04/03/03		(H)	Heard & Held MINUTE(STA)
04/08/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 93

SHORT TITLE:REPEAL BOATING SAFETY SUNSET

SPONSOR(S): REPRESENTATIVE(S)WEYHRAUCH

Jrn-Date	Jrn-Page		Action
02/12/03	0186	(H)	READ THE FIRST TIME - REFERRALS
02/12/03	0186	(H)	TRA, STA
02/18/03		(H)	TRA AT 1:30 PM CAPITOL 17

02/18/03		(H)	<Bill Hearing Postponed to 2/25/03> -- Meeting Canceled
02/25/03		(H)	TRA AT 1:30 PM CAPITOL 17
02/25/03		(H)	Heard & Held
02/25/03		(H)	MINUTE(TRA)
03/27/03		(H)	TRA AT 1:30 PM CAPITOL 17
03/27/03		(H)	Scheduled But Not Heard
04/01/03		(H)	TRA AT 1:30 PM CAPITOL 17
04/01/03		(H)	Moved CSHB 93(TRA) Out of Committee
			MINUTE(TRA)
04/02/03	0730	(H)	TRA RPT CS(TRA) NT 1DP 2DNP 2NR
04/02/03	0730	(H)	DP: HOLM; DNP: KOHRING, MASEK;
04/02/03	0730	(H)	NR: OGG, FATE
04/02/03	0730	(H)	FN1: ZERO(DNR)
04/02/03	0750	(H)	COSPONSOR(S): OGG
04/03/03		(H)	STA AT 8:00 AM CAPITOL 102
04/03/03		(H)	Heard & Held
			MINUTE(STA)
04/08/03		(H)	STA AT 8:00 AM CAPITOL 102

**WITNESS REGISTER**

SENATOR GARY STEVENS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of SB 83.

REPRESENTATIVE ERIC CROFT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 102.

LAUREE HUGONIN, Executive Director

Alaska Network on Domestic Violence & Sexual Assault (ANDVSA)

Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 102.

BRIAN JUDY, Alaska State Liaison

Institute for Legislative Action

National Rifle Association (NRA)

Sacramento, California

POSITION STATEMENT: Testified during the hearing on HB 102.

REPRESENTATIVE KEVIN MEYER

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of HB 81.

CHARLES R. HOSACK, Deputy Director  
Director's Office  
Division of Motor Vehicles  
Department of Administration (DOA)  
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the division in support of HB 81.

SUZANNE CUNNINGHAM, Staff  
to Representative Kevin Meyer  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered questions from the committee during the hearing on HB 81.

TOM CHAPPLE, Acting Director  
Division of Air & Water Quality  
Department of Environmental Conservation (DEC)  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 81.

CYNTHIA L. HEIL, Section Manager  
Mobile Sources Section  
Division of Air & Water Quality  
Department of Environmental Conservation (DEC)  
Anchorage, Alaska

POSITION STATEMENT: Answered questions from the committee during the hearing on HB 81.

JAMES ARMSTRONG, Coordinator  
Anchorage Metropolitan Area Transportation Solutions (AMATS)  
Municipality of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Brought attention to an AMATS policy letter of support for HB 81.

LINDA SYLVESTER, Staff  
to Representative Bruce Weyhrauch  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Answered a question about HB 102 and brought up a point pertaining to HB 93.

**ACTION NARRATIVE**

**TAPE 03-38, SIDE A**

Number 0001

**CHAIR BRUCE WEYHRAUCH** called the House State Affairs Standing Committee meeting to order at 8:02 a.m. Representatives Seaton and Weyhrauch were present at the call to order. Representatives Holm, Dahlstrom, Lynn, Berkowitz, and Gruenberg arrived as the meeting was in progress.

SB 83-SVEN HAAKANSON AIRPORT AT OLD HARBOR

CHAIR WEYHRAUCH announced that the first order of business was SENATE BILL NO. 83, "An Act naming the Sven Haakanson, Sr. Airport at Old Harbor."

Number 0200

SENATOR GARY STEVENS, Alaska State Legislature, sponsor, explained that SB 83, would name the small state airport in Old Harbor - a city and Native village [on Kodiak Island] - after Sven Haakanson, Sr. He noted that Mr. Haakanson was the mayor of that community for 27 years. Senator Gary Stevens said he met Mr. Haakanson in 1970 and counted him as a friend. He was a real mover and shaker in the Native community; was well known; played a major role in establishing various Native corporations and associations, including cofounder of Kodiak Area Native Association and of Koniag, Incorporated, the regional Native Corporation; and served on the boards of many other organizations. Mr. Haakanson died on November 23, 2002, and was named Elder of the Year by Koniag, Incorporated.

SENATOR GARY STEVENS told the committee that the people of Old Harbor, "the city," and various corporations and organizations in that community support SB 83. He stated his belief that there has been absolutely no opposition to naming the airport after Mr. Haakanson. Furthermore, people will be proud to have his name on that small airport, he opined.

Number 0355

SENATOR GARY STEVENS, in response to Chair Weyhrauch, said he believes it would be named "The Sven Haakanson, Sr. Airport." Noting that the title of the bill reads "The Sven Haakanson, Sr. Airport at Old Harbor", while line 5 reads "Sven Haakanson, Sr.

Airport", he at first suggested line 5 probably should read, "named the Sven Haakanson, Sr. Airport at Old Harbor".

REPRESENTATIVE SEATON asked if the intent was to include "at Old Harbor" on the sign.

SENATOR GARY STEVENS responded that he isn't too interested in that, which would be a long name, and that he hadn't realized there was a difference between the title and line 5. He then specified that the sign should say, "The Sven Haakanson, Sr. Airport."

REPRESENTATIVE BERKOWITZ asked if the airport is named already.

SENATOR GARY STEVENS said no.

Number 0529

REPRESENTATIVE HOLM moved to report SB 83 out of committee with individual recommendations and the accompanying fiscal note.

Number 0570

REPRESENTATIVE SEATON objected for purposes of discussion. He asked the sponsor if he would entertain a friendly amendment to remove "at Old Harbor" from the title.

SENATOR GARY STEVENS said yes.

REPRESENTATIVE HOLM withdrew his motion to move the bill.

CHAIR WEYHRAUCH asked the sponsor what he would like to do.

SENATOR GARY STEVENS concurred with changing the title so it is clear that the sign will say "Sven Haakanson, Sr. Airport". Thus he suggested deleting "at Old Harbor" from line 1.

Number 0654

REPRESENTATIVE HOLM moved to report SB 83, with the foregoing amendment, out of committee with individual recommendations and the accompanying fiscal note.

CHAIR WEYHRAUCH asked if there was any objection. There being no objection, he indicated HCS SB 83(STA) would be reported from the House State Affairs Standing Committee.

[Following the meeting, however, at the advice of Legislative Legal and Research Services, a decision was made not to adopt the amendment. Therefore, SB 83 was reported from the House State Affairs Standing Committee.]

HB 102-CONCEALED DEADLY WEAPONS LEGAL

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 102, "An Act relating to concealed deadly weapons."

Number 0759

REPRESENTATIVE ERIC CROFT, Alaska State Legislature, sponsor of HB 102, suggested that the committee work from the proposed committee substitute (CS), Version I, labeled 23-LS0515\I, Luckhaupt, 4/2/03.

REPRESENTATIVE CROFT noted that the original bill didn't deal with the age requirement, whereas Version I would set the age requirement at 21. He explained, "We really do mean to keep all the substantive restrictions on gun ownership, except the requirement to get the permit." He said there are 18- and 19-year-olds currently fighting in Iraq, using firearms. Notwithstanding that, for the purposes of the bill, Representative Croft said he didn't want to make any changes except getting rid of the requirement to get the concealed-carry permit.

Number 0915

REPRESENTATIVE CROFT noted that "the old law" said a person can carry a concealed weapon if that person is a permittee, is on his/her own land, or is engaged in hunting or fishing activities. It also said a person who is a permittee and is stopped by [a police] officer is under an affirmative obligation to tell the officer if he/she is carrying a weapon and to allow that officer to secure that weapon, if necessary. As a technical matter, he pointed out that if a police officer approaches a person who is carrying concealed on his/her own land without a permit, that person is under no obligation to tell the officer. Representative Croft said [the same applies to someone who is] hunting or fishing. He continued as follows:

We have made that a general requirement of the criminal law. So now you don't have to have a permit, but you have the general requirement, when stopped by

an officer, to say - if you're carrying concealed - that you are: "Hello officer. By the way, I have a [45-caliber pistol] here under my coat."

So, in that sense, when we did not originally intend it, it is tightening of the law somewhat; it is putting an affirmative obligation - I think a reasonable one - on everybody. You can carry concealed, generally, but you have the more general requirement now to tell an officer when he comes.

REPRESENTATIVE CROFT noted that this language is on the bottom of page 1 and the top of page 2 [in Version I]; the added language pertaining to the age restriction is found on page 2, lines 20-22.

Number 1092

REPRESENTATIVE CROFT indicated concern previously expressed by a member regarding a list of permittees. He referred to the bottom of page 3 and the top of page 4, where he said the requirement to compile a list of permittees was removed and the idea that permits or renewals are not public records was [retained]. He explained:

If we deleted the whole section, and they decided to keep a list, we would have technically allowed them to distribute it, which was ... never the intent. So right now, they can keep a list or not, as they choose. But if they do, it's not public records under [AS] 40.25.110.

REPRESENTATIVE CROFT said he appreciated members' comments made during the prior hearing on HB 102.

Number 1158

REPRESENTATIVE HOLM referred to previous discussion regarding this requirement of informing when a person has a weapon. He asked if it is currently in law that if [a police officer] stops a vehicle and there is a weapon in the glove compartment, for example, that weapon is considered a concealed weapon and [the person who was stopped] must inform [the officer].

REPRESENTATIVE CROFT answered as follows:

Right now, you would be in one of two situations. If it's sort of within your control and it's concealed under a coat on the seat next to you [or] in the glove compartment readily accessible to you, then, yes, it's a concealed weapon. And one of two things: either you have [a] permit - in which case you're under the affirmative duty to tell them - or you don't have a permit, in which case you're committing an illegal act. The general duty to inform was placed on permittees. You didn't need to on the other, because it wasn't illegal for you to carry without the permit anyway.

Number 1256

REPRESENTATIVE SEATON referred to a question asked [during a prior hearing] regarding knives. Saying he didn't see the answer addressed, he remarked, "A sheath knife was not permitted."

REPRESENTATIVE CROFT responded, "And now that we have allowed it, it is." He said it was a good question and mentioned "a somewhat complicated and tortuous path." He explained:

Before, you had to have the hunting or fishing exception. So on your boat you could have the sheath knife, even concealed, but you could not, as a general rule, walk down the street with it concealed. Now that we have made ... the possession of a concealed deadly weapon ... no longer criminal, that has solved that problem.

It also led us into the idea of pipe bombs [that] somebody mentioned in their last committee meeting. Pipe bombs are explosives, and separately criminalized, higher than this level. So, while "deadly weapon" includes "explosive", "explosive" is separately, specifically, and more clearly charged at a higher level. Knives and pipe bombs out, in other words, Representative [Seaton].

Number 1356

REPRESENTATIVE SEATON referred to an exception on page 2, line 21, regarding ordinary pocket knives.

REPRESENTATIVE CROFT referred to AS 11.61.220(a), which read in part:

- (a) A person commits the crime of misconduct involving weapons in the fifth degree if the person
- (1) knowingly possesses a deadly weapon, other than an ordinary pocket knife or a defensive weapon, that is concealed on the person;

REPRESENTATIVE CROFT said the definition of a deadly weapon excludes pocket knives, but includes big knives such as sheath knives. He said under the old law, carrying it concealed was a violation of the law, unless the person had a permit. He added, "It's not even clear, ... because it was a firearms permit, that that would get you out of trouble." With regard to the new law, however, he said a person can carry a deadly weapon concealed, "as long as you don't fit into some of these categories that are in bold" such as not telling a police officer, or being in someone's residence without asking [permission with regard to the weapon].

Number 1454

REPRESENTATIVE GRUENBERG referred to page 2, line 21, and conveyed his understanding that "defensive weapon" is defined in AS 11.81.900(b)(19). He asked for the definition.

[Chair Weyhrauch handed Representative Gruenberg a copy of the statute to read.]

REPRESENTATIVE CROFT said, "Mace is what I remember from it - that it's specifically defined."

REPRESENTATIVE BERKOWITZ said the phrase "contacted by a peace officer" is contained in AS 18.65.750 and would be repealed by this bill. He said he thinks that it's fairly critical to have a definition of "contacted".

REPRESENTATIVE CROFT noted that the language is "back in" on page 3, lines 18-21. He explained that it was one part of AS 18.65.750(c) that [he and his staff] thought was needed.

Number 1550

REPRESENTATIVE BERKOWITZ said the other issue that gives him a great deal of concern is Section 6, which allows the use of records for law enforcement purposes. He said the constraint

that he is concerned about has a lot to do with what's happening at the federal level with regard to the so-called Patriot Act I and Patriot Act II, through which the federal government is seeking access to "inventories of weapons and associations and such." He asked if that topic had come up during Representative Croft's deliberations on HB 102.

REPRESENTATIVE CROFT answered no. He said it is a concern of his as well. Noting that what is being kept in Section 6 is the current law, he explained:

We're saying here, the negative, that is, they're not public records and may only be used for law enforcement purposes. That's in the current law; we're retaining the restriction. We didn't feel this bill [was] the vehicle to go further into the records issue, but we're not loosening it up.

Number 1636

REPRESENTATIVE BERKOWITZ suggested it would be appropriate [in the House Judiciary Standing Committee, the next committee of referral] to put up some safeguards. He said he is leery of letting the federal government have access to "some of the things they want to have access to in the Patriot Acts."

CHAIR WEYHRAUCH asked Representative Berkowitz if his concerns regarding Section 6 relate to constraints in the Patriot Act.

Number 1656

REPRESENTATIVE BERKOWITZ said he has received information from the mayor of Anchorage, "where they have a program where they want to ... have inventories of weapons and inventories of people who have membership in certain organizations, ... pursuant to Patriot [Act] I." He related his understanding that Patriot [Act] II is "far more onerous in that regard."

REPRESENTATIVE CROFT said he would watch out for that.

CHAIR WEYHRAUCH asked Representatives Berkowitz and Croft if that could be addressed in the current committee, for review by [the House Judiciary Standing Committee].

REPRESENTATIVE CROFT responded that he thinks it is a very legitimate concern, but may be "a larger creature for a different bill." He explained, "It's not just 'concealed

carries'; it's a lot of different records pertaining to weapons, and a lot of different things that they may be concerned about." Regarding [HB 102], he opined that it is important to maintain the restrictions on "who can see this." [The bill states that] permits and renewals are not public records and may only be used for law enforcement purposes.

REPRESENTATIVE CROFT indicated that it is a legitimate point to consider further restrictions regarding law enforcement. He said he wants the committee to understand that "we are not backtracking in this bill at all." Regarding strengthening the current requirements, he said it is something that could be looked at, but might be "biting off too big a bite for this small bill."

Number 1750

REPRESENTATIVE BERKOWITZ, on that point, referred to the title, "An Act relating to concealed deadly weapons." He posited that this certainly fits within that broad title. He added, "We're expanding the rights of those who are carrying concealed; we ought to, at the same time, protect those rights. And so I would, again, suggest we do it."

REPRESENTATIVE BERKOWITZ, speaking from his experience as a prosecutor, referred to a case where a young man was arrested for carrying concealed because he had a knife in a scabbard that was covered by a coat when he was seated. When the young man stood up, the knife was revealed, but the officer had contacted him when the young man was seated. He referred to [page 1, lines 8-11], which read as follows:

**(A) that is concealed on the person, and, when contacted by a peace officer, the person fails to**

**(i) immediately inform the peace officer of that possession; or**

REPRESENTATIVE BERKOWITZ said the definition of "immediately" is fairly critical. He suggested that when police make contact, they should affirmatively indicate, to those they contact, "the obligation." He likened it to Miranda [warnings].

CHAIR WEYHRAUCH said his concern would be that there may be an exclusionary prohibition on authorizing evidence of a crime because a police officer fails to immediately request

information about possession. He said the burden would be put on the police officer.

REPRESENTATIVE BERKOWITZ asked, "What's the mens rea, if you don't immediately inform? What's the culpable mental state?"

CHAIR WEYHRAUCH said it is certainly a question of fact.

REPRESENTATIVE BERKOWITZ said:

There's no intent to not inform the officer; it's not reckless, because you don't know about it. You're not negligent, because you don't know about it. So, it almost seems that you've evolved into a situation where ... there's no mental state required at all. And that runs counter to most components of the criminal code.

CHAIR WEYHRAUCH, in response to a question by Representative Croft, said the committee tries to get a sense of "where the policy is going to be shaped outside the committee room."

Number 1959

REPRESENTATIVE GRUENBERG, regarding mens rea or mental intent, referred to the word "knowingly" on [page 1], line 6, which modifies the word "possesses". He commented, "They may know that they possess it, and that's the knowledge that seems to be required here." He deduced that Representative Berkowitz was speaking in regard to [when the person] knowingly fails to immediately inform the peace officer. He stated his assumption that the person would have to know that the other person is a peace officer. He said it wouldn't apply if the person were a plain-clothes officer. He referred to Section 4, beginning on page 3, line 18, which read as follows:

**\*Sec. 4.** AS 11.61.220 is amended by adding a new subsection to read:

(j) In (a)(1) of this section, "contacted by a peace officer" means stopped, detained, questioned, or addressed in person by the peace officer for an official purpose.

REPRESENTATIVE GRUENBERG surmised that it is the intent [of the sponsor] that the person would have to know that the person was a peace officer.

REPRESENTATIVE CROFT said that is correct.

REPRESENTATIVE GRUENBERG asked Representatives Croft and Berkowitz if it would make them feel better if [the language was changed] to read "a known peace officer", for example.

REPRESENTATIVE BERKOWITZ expressed concern about imposing an affirmative duty on people to inform the police of anything. He explained, "If people are unaware of that affirmative duty, it seems to me problematic to try to prosecute them for a violation of that section."

Number 2107

REPRESENTATIVE GRUENBERG suggested adding something like "and asked if they had a weapon" to Section 4.

REPRESENTATIVE CROFT said he isn't comfortable putting the affirmative duty on the police officer without understanding more about it. He said he'd like to get [the bill] to the House Judiciary Standing Committee for just this sort of discussion.

Number 2141

REPRESENTATIVE DAHLSTROM moved to adopt the proposed CS, Version 23-LS0515\I, Luckhaupt, 4/2/03, as a work draft. There being no objection, Version I was before the committee.

Number 2163

LAUREE HUGONIN, Executive Director, Alaska Network on Domestic Violence & Sexual Assault (ANDVSA), thanked the sponsor for addressing the concern of [ANDVSA] regarding people who are carrying concealed and the need, when entering a residence, to identify that they are carrying a concealed weapon. Announcing that today is the six-month anniversary of her father's death, she said he'd taught her that it is important to pay attention to the detail; people add to or subtract from their character by how they pay attention to that detail and what they [do]. She continued:

There were some things that were said at the last committee, or things that were written down, that I think are not accurate and need correcting. I'm not hysterical. I wasn't [hysterical] in any of the committee meetings whenever I testified about concealed weapons. I never screamed that blood was

going to run in the street. As you can probably tell, I don't make my money by training people how to use guns. And I think that training is important.

They had a qualifier in the NRA's testimony the past time about saying that while they were using statistics that said crime rates went down, they weren't saying that that was the correlation, necessarily, between the concealed weapons permitting process.

MS. HUGONIN referred to implications at a previous hearing that if a state enacts concealed carry laws, its [crime rates] will go down. She said:

Last year, we did not testify on Senate Bill 242 until they made a statement that sexual assault went down. And as you have been becoming more familiar with this problem in our state, you know that we rank the top per capita in the nation in sexual assault, and we have for the last several years. Having concealed permits in our state has not affected that statistic.

Number 2283

MS. HUGONIN emphasized that this isn't necessarily about the right to bear arms, but about whether they should be concealed. Just as people have the right to self-defense, she said they should have the right to refuse to be in the presence of a weapon that might pose a danger. She told members:

When a person carries concealed, that takes away my right to make a choice about whether or not I want to be in the presence of that weapon. So, as we're thinking through the issue, I would hope that we would think of other elements besides the right to bear arms. I think it's different from that. I think it's a balancing act about our rights and how we decide to protect ourselves and to be safe.

MS. HUGONIN, in response to Representative Berkowitz's concern regarding [people] being informed of their responsibility, stated the following:

Originally, when we had enacted the concealed permitting process, when you went to get your permit you were given a packet of information so that you had

the opportunity to know what the statutes and the regulations were. So you did have the opportunity to say, "Oh, if I see a peace officer, this is what I'm supposed to do," or, "These are the places I'm not allowed to carry" - so that you had the opportunity to try and keep yourself out of that trouble, to be informed about where you could and couldn't carry the weapon.

So I would hope that we're open to have dialogue and discussion on both sides. That language doesn't have to be inflammatory. ... Scare tactics don't have to be used when you're trying to talk about this issue.

Number 2418

BRIAN JUDY, Alaska State Liaison, Institute for Legislative Action, National Rifle Association (NRA), mentioned graphs he'd showed the committee [at a previous hearing, showing crime rates]. Noting that 1995 was the year the Alaska concealed weapon permit law took effect, he said crime did "fall off precipitously, immediately following." He continued:

I did point out that I can't guarantee that that was as a direct result of the implementation of the concealed weapon permit law, but I did want to make the point that the implementation of that law right after the (indisc.). And there was tremendously inflammatory language, maybe not necessarily by the previous speaker, [but] back in the mid-nineties, ... by many others. And it was specifically mentioned that there ... were going to be shootouts in Anchorage intersections. It was quite amazing. And none of that took place. There have been studies that have shown that when ... law-abiding citizens are able to provide a means of self-protection that crime does drop.

So, for whatever the reason -- I'm sure some component of it is the fact that criminals are now more concerned, but there are a lot of other things, too, that may impact the rate of crime in a particular state. So, again, I believe that this law is the ultimate streamlining; it takes away the need for law-abiding citizens to get permission to provide a means of self-protection. I believe that it will not have a negative impact on crime.

To make one last point on the training: there are many, many states that issue concealed weapon permits, and the breadth of laws ... from absolutely no training to fairly significant training is out there. And the empirical evidence in every one of those states is the same: ... there are not problems generally caused by concealed weapon permit holders, training-related or otherwise.

MR. JUDY stated the NRA's support of HB 102 as amended.

Number 2569

CHAIR WEYHRAUCH closed public testimony. He told Representative Croft he thinks the title should be tightened, and asked him to work with the committee regarding the questions raised on Sections 4 and 6.

REPRESENTATIVE BERKOWITZ asked Representative Croft to consider the following:

In Section 5, which, I think, was the basis of this legislation, if we could have a section that does impose on people from other jurisdictions -- ... this is a presumption that they're aware of Alaska statutes and restrictions. ... That might be, ... just for evidentiary purposes, ... very helpful.

REPRESENTATIVE GRUENBERG said any further questions he himself might have, he could work on in the House Judiciary Standing Committee. [HB 102 was held over.]

HB 81-MOTOR VEHICLE EMISSIONS INSPECTION

Number 2677

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 81, "An Act relating to motor vehicle emissions; and providing for an effective date."

Number 2690

REPRESENTATIVE KEVIN MEYER, Alaska State Legislature, sponsor, explained that HB 81 would improve enforcement of the I/M [Inspection & Maintenance] program, provide consistency between the various departments that oversee the I/M program, and

provide some relief to the current extraneous testing requirements. He said it is a technical bill regarding a program that exists only in Anchorage and Fairbanks.

REPRESENTATIVE MEYER noted that one proposal is to change the fine from \$200 to \$500. He said the average repair cost to bring a car into compliance is approximately \$250 to \$2,000; hence there is currently an economic incentive not to take the I/M exam because the fine is less than the cost of the repairs. If federal standards for clean air aren't met in Anchorage and Fairbanks, however, it jeopardizes federal funds that both cities receive.

REPRESENTATIVE MEYER noted that in the past some alternative fuels were exempt. Although natural gas is a clean-burning fuel, he said it has been found that if a car is not maintained, even clean-burning fuels can also pollute the air. Therefore, those cars will also now be required to get I/M-tested.

REPRESENTATIVE MEYER said the legislation also addresses several loopholes in the current program. For example, before a vehicle's registration can be renewed, a car must have a current, valid inspection. He explained, "The problem arose when an inspection would expire, but the registration was still current." He noted that [HB 81] would provide that a motor vehicle registration cannot extend beyond the expiration of any emissions certificate.

REPRESENTATIVE MEYER told the committee that the bill would also clarify what emission programs must be met when ownership is transferred. He stated, "It used to be [that] a car that was 1987 or older would have to be I/M-inspected every 12 months. Now, they're changing that to all cars ... every two years." He said [the legislation] also contains a consumer protection clause because someone who buys a car with no decal in the window will know that car hasn't been inspected.

REPRESENTATIVE MEYER noted that currently the Department of Administration (DOA) solely handles enforcement. The legislation would extend enforcement to the Department of Environmental Conservation (DEC) and to "the various municipalities such as Anchorage and Fairbanks."

Number 2881

CHARLES R. HOSACK, Deputy Director, Director's Office, Division of Motor Vehicles, Department of Administration, testified on

behalf of the division in support of HB 81. He reiterated Representative Meyer's previous statement that the bill would provide consistency and would remove some of the confusing aspects of the program "for both ourselves and our customers." He opined that it would take out unnecessary inspections without impacting the air quality program.

Number 2916

REPRESENTATIVE SEATON, referring to the zero fiscal note, asked if there would be no cost in enforcing the program.

REPRESENTATIVE MEYER said he'd thought there should actually be a positive fiscal note; there should be more money coming in to the state because of the increased fines. He added that he didn't think the difference would be that great.

Number 2950

REPRESENTATIVE GRUENBERG said it seems a person who operates a motor vehicle in violation of the emissions requirement and thus violates Section 5 would necessarily also violate Section 8, although the same isn't true in reverse. He also mentioned potential constitutional problems.

**TAPE 03-38, SIDE B**

Number 2989

REPRESENTATIVE GRUENBERG asked the sponsor to confirm that his intent is not for somebody to be "double punished" for violating both of these [sections].

REPRESENTATIVE MEYER replied, "That's correct."

REPRESENTATIVE GRUENBERG said he'd like that clear on the record. Second, he said there are many poor people in his district and many older cars, some of which probably violate [the proposed legislation]. He said he knows the fine is being raised for a purpose; however, it is a lot of money to a poor person who has an older car. He said he'd like the court to have some discretion in the matter. He suggested that both Sections 5 and 8 include the words "not to exceed" before "\$500".

REPRESENTATIVE MEYER deferred comment to his staff.

Number 2920

SUZANNE CUNNINGHAM, Staff to Representative Kevin Meyer, Alaska State Legislature, told Representative Gruenberg that she understands his concern. She noted that a question was raised during a House Transportation Standing Committee hearing regarding the collection of fines. She said she was able to speak with someone "through the Municipality of Anchorage vehicle Inspection & Maintenance program," regarding how issuing citations, violations, and the collection of fines are dealt with on the municipal level. She said she was told that the court actually does have some jurisdiction in determining the fine for each citation. She mentioned information that she'd distributed "to the individual offices" which indicated that in some cases, when the court sees that a person has brought a car into compliance with the program, it can either waive the fees or significantly reduce them.

REPRESENTATIVE GRUENBERG said, "Then you would have no objection, I assume, to putting that language in so that even a judge would understand what you said."

REPRESENTATIVE MEYER responded, "No objection."

REPRESENTATIVE GRUENBERG said he would offer that amendment at the appropriate time. In response to a request by Chair Weyhrauch, he reiterated that [the amendment would address a concern regarding] both Sections 8 and 5.

REPRESENTATIVE GRUENBERG noted that there is no mens rea required. He clarified, "You don't have ... to do this knowingly or anything. If you do it, regardless of your mental state, you're guilty. Is that correct?"

[Representative Meyer nodded in agreement.]

CHAIR WEYHRAUCH said that's how it reads in Section 8.

REPRESENTATIVE GRUENBERG added, "And also in Section 5. You don't have to know if you are in violation of the emission requirement. If you're behind the wheel and the thing is violating it, you're guilty." He said he doesn't think there is a constitutional problem with that, but wants it on the record that "it's strict liability in the criminal sense." He asked if that is correct.

REPRESENTATIVE MEYER said yes. He added that he thinks that's why there is some flexibility in the fine.

Number 2775

TOM CHAPPLE, Acting Director, Division of Air & Water Quality, Department of Environmental Conservation (DEC), testified in support of HB 81. He mentioned staff-level efforts over the years in the Municipality of Anchorage and in Fairbanks to look at how to improve the program "both from the consumer end [and] the vehicle-motor end," as well as how to make the program effective and efficient. Mr. Chapple concluded as follows:

The vehicle Inspection & Maintenance is one of our key programs to try [to] achieve air quality in Anchorage, and it's been successful. In Anchorage, specifically, we have not violated the public health standard for six winters in a row, and that is in large part due to this program. It is time to make some improvements, and I think the things in this bill can help the owners of vehicles, as well as the staff at the local level.

Number 2688

REPRESENTATIVE SEATON asked if Mr. Chapple shared his own understanding that enforcement would involve meter maids checking for the I/M decals.

MR. CHAPPLE answered that he doesn't believe it would work that way. He deferred further response to his available staff.

REPRESENTATIVE MEYER said he also thinks meter maids would do the enforcement. He explained that currently DOA is [in charge of enforcement]; however, [the legislation would also include] the involvement of DEC and the various municipalities.

NUMBER 2620

MS. CUNNINGHAM commented as follows:

I believe ... that, currently, the Division of Motor Vehicles has the authority to enforce registration, and, of course, you can't register your vehicle unless you have a current I/M. DEC can enforce the emissions program, but there seems to be a pretty vague area in between, as far as the registration and the emissions programs.

MS. CUNNINGHAM said Cindy Heil could address the enforcement issue.

REPRESENTATIVE SEATON restated his concern as follows:

We've changed this from having to have a certificate, which is something that doesn't show up on the outside of the car, to it's now a \$500 violation if you fail to display an emission decal in your window. And we are now giving the authority to the municipality, which I would presume -- just like the ... tickets that were given for registration, when that was given to the municipality. ... I would presume that that would be the structure, and I'm just wondering whether ... somebody's going to address whether that's the probable mechanism for enforcement of this.

Number 2553

CYNTHIA L. HEIL, Section Manager, Mobile Sources Section, Division of Air & Water Quality, Department of Environmental Conservation (DEC), noted that Sections 5, 7, and 8 in the bill deal with enforcement. She specified two types of enforcement: that which deals with the display of [the decal] on the windshield, and that which deals with falsification. In Anchorage, she said, a number of people register their vehicles in the Matanuska-Susitna area to avoid the I/M requirement. Ms. Heil said, "You can't go by just what's on the windshield." She continued as follows:

That kind of enforcement you have to verify, and prove that those vehicles are falsely registered. What happens is, you find a vehicle that doesn't have an I/M, you start through your normal ... processes, and then you also find if they're falsely registered.

Well, currently, in our notices of violation, we are not allowed, because we don't have statutory authority, to tell, as a remedy, for those people to not only get an I/M, but then to properly register their vehicle. That has to go through the Department of Administration, with the Division of Motor Vehicles. It would be much more efficient if the department and municipalities who do enforcement could "notice" people that not only do their cars do not have an I/M, but they also need to register their

vehicles properly. That is one type of enforcement that we deal with.

That other is the decals. But with Anchorage, especially, you can't just write tickets for not having a sticker on your windshield, because people come in here to shop. People come in here to visit. And we must be very careful about how we do enforcement, because those people are legal to be in Anchorage without an I/M.

And so, the other point about why these fines are coming up is that we are overwhelmed right now with enforcement. I mean, we're not trying to go out and pad our budgets. Anybody who has the opportunity to comply, as well, with the municipality -- and these are just trying to help take away the numbers that we're having to deal with at this point in time.

Number 2412

REPRESENTATIVE SEATON referred to page 4, [beginning on] line 30, which read as follows:

(f) A person who fails to display an emissions inspection decal as required by law

REPRESENTATIVE SEATON said, "That's the \$500." He added, "But it's not the 'fails to display', but the 'as required by law', is where this dual requirement comes into effect. Is that correct? Because you're not required to display ... the sticker unless you're an Anchorage resident?"

MS. HEIL said that's correct. Regulations are very specific regarding who is and isn't required to have a decal. She said Section 8 was modified specifically to give the department the ability to either deal with violations regarding the sticker - for example, "people are taking them back off" - or to use other enforcement mechanisms for people who are egregious in their violations.

Number 2341

REPRESENTATIVE GRUENBERG recalled from his previous time [in legislature] what a problem it is has been when people register their cars in the Matanuska-Susitna area to fraudulently evade this law. He asked Ms. Heil whether it is still a problem.

MS. HEIL responded, "That's very much the case."

REPRESENTATIVE GRUENBERG asked if there is a law which prohibits somebody from doing that.

MS. HEIL answered as follows:

The statutes and regulations, under the motor vehicle rules, under the Department of Administration, the Division of Motor Vehicles, [state] very clearly that ... you're supposed to register your vehicle and how you ... do it properly. But they don't have their own enforcement arm. They have to rely on ... the police or the troopers, or through ... the proper administrative procedures. We would overwhelm the Division of Motor Vehicles if we were to try to have them process all the revocations ... through their regulations and statutes.

What we're attempting in Section 7 is to allow the department ... and the municipalities to at least notice, in our notices of the violations, that the remedy the people need to make is to properly register. At this point in time, we are not allowed, during the enforcement of false registration, to ask them, as a remedy, to get their vehicles properly registered. And so now what we're seeing is, people getting their I/Ms and then, in two years, we're having to go back out and do enforcement on them to get their I/Ms again, because they're not getting their vehicles properly registered where they [should].

Number 2240

REPRESENTATIVE GRUENBERG asked if there is a statute that makes it a crime or provides a penalty for people who knowingly and intentionally register their cars elsewhere to evade the local emission requirement law.

MS. HEIL answered yes. She suggested that Mr. Hosack could provide more specific information.

Number 2155

JAMES ARMSTRONG, Coordinator, Anchorage Metropolitan Area Transportation Solutions (AMATS) Program, Municipality of Anchorage, referred to a letter from AMATS dated March 20, 2003, included in the committee packet, which he said is a policy letter of endorsement for HB 81. He commended Representative Meyer, his staff, and DEC for converting a very technical piece of legislation into a "user-friendly, readable sponsor statement and understandable bill."

Number 2172

MR. HOSACK, regarding Representative Gruenberg's previous question, said the section of law is in Title 28. Referring to AS 28.10.491, he mentioned paragraph (9), which read as follows:

(9) makes a false statement or otherwise conceals or withholds a material fact in an application for registration or certificate of title or falsely affirms with respect to a matter required to be sworn to, affirmed, or furnished under this chapter or regulations adopted under this chapter; except that a person who with criminal negligence as defined in AS 11.81.900, falsely certifies to the department the existence of a motor vehicle liability insurance policy under AS 28.10.021(a)(2), is guilty of a class A misdemeanor.

MR. HOSACK said that violation could be "up to a felony" and would apply in this case. He clarified, "If you're making an application for registration and ... your primary residence is in Anchorage, say, and you list the Mat-Su Valley, it would come under this."

Number 2113

REPRESENTATIVE GRUENBERG offered [Amendment 1], a handwritten amendment that read as follows [original punctuation provided but some formatting changed]:

p 4, line 6, after "fined" add  
"an amount not to exceed"

p 5, line 2, after "fined" add  
"an amount not to exceed"

REPRESENTATIVE MEYER said [Amendment 1] would be fine.

Number 2064

CHAIR WEYHRAUCH asked if there was any objection to adopting Amendment 1. There being no objection, it was so ordered.

Number 2034

CHAIR WEYHRAUCH offered [Amendment 2] to the title as follows:

Page 1, line 1, after "emissions"  
Insert ", emission inspection decals, and fines"

CHAIR WEYHRAUCH asked if there was any objection to adopting Amendment 2. There being no objection, it was so ordered.

Number 2005

REPRESENTATIVE HOLM referred to a letter from the Fairbanks North Star Borough I/M manager regarding page 3, line 11, which read:

(ii) has a certificate of inspection, but  
the certificate shows that the vehicle is not in  
compliance with program requirements

REPRESENTATIVE HOLM noted that the author of the letter had indicated that wasn't necessary because "we could transfer a noncomplying vehicle anyway."

REPRESENTATIVE MEYER said he hadn't read the letter and deferred to his staff.

MS. CUNNINGHAM said she'd spoken with Ms. Heil regarding the previously stated language. She deferred to Ms. Heil.

MS. HEIL said it's a clarification, but not necessarily needed.

Number 1926

REPRESENTATIVE HOLM said if [the language] makes the bill more understandable, then it's fine to keep it in.

REPRESENTATIVE MEYER responded that the language could be left in for purposes of clarification, unless the committee considered that a problem.

Number 1888

REPRESENTATIVE DAHLSTROM moved to report HB 81, as amended, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 81(STA) was reported from the House State Affairs Standing Committee.

HB 161-CORRECTIONAL INDUSTRIES PROGRAM EXPENSES

Number 1875

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 161, "An Act allowing expenses of the correctional industries program that may be financed from the correctional industries fund to include the salaries and benefits of state employees."

Number 1850

REPRESENTATIVE SEATON moved to adopt as work drafts the proposed committee substitute (CS), Version D, labeled 23-GH1104\D, Luckhaupt, 4/2/03, and the accompanying letter of intent. The letter of intent read [original punctuation provided]:

The Legislature supports using the Correctional Industries Fund to pay for salaries and benefits of employees of the Correctional Industries Program. The legislature supports the program and has supported past funding by using general fund dollars. In the event that the fund is unable to pay for the salary and benefit costs associated with the employees of the program, then the legislature will make every attempt to find alternative funding or return to funding through general funds.

CHAIR WEYHRAUCH announced that without objection, Version D and the letter of intent were before the committee.

CHAIR WEYHRAUCH suggested amending the letter of intent to capitalize "program" and "fund" [throughout].

REPRESENTATIVE HOLM asked if ["program" in the title of the bill] also should be capitalized.

CHAIR WEYHRAUCH answered, "In the title, it's different because it's referred to consistently as the 'program' - small caps - in the bill."

[The foregoing amendment to the letter of intent was treated as adopted.]

REPRESENTATIVE HOLM moved to report CSHB 161 [Version 23-GH1104\D, Luckhaupt, 4/2/03], along with the amended letter of intent, out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 161(STA) was reported from the House State Affairs Standing Committee.

HB 93-REPEAL BOATING SAFETY SUNSET

Number 1776

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 93, "An Act relating to boating safety; repealing secs. 3, 5, 7, 9, 11, 14, 16, 18, 20, 23, 26, 27, and 30, ch. 28, SLA 2000; and providing for an effective date." [Before the committee was CSHB 93(TRA).]

CHAIR WEYHRAUCH, sponsor, reminded members that the bill had been held pending receipt of a fiscal note.

Number 1690

REPRESENTATIVE GRUENBERG moved to report [CSHB 93(TRA)] out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 93(TRA) was reported from the House State Affairs Standing Committee.

The committee took a brief at-ease.

Number 1583

LINDA SYLVESTER, Staff to Representative Bruce Weyhrauch, Alaska State Legislature, noted that it is the committee substitute (CS) from the House Transportation Standing Committee, although she recalled that Representative Gruenberg had brought up the notion of leaving in one of the sunset provisions.

[Representative Gruenberg moved to rescind his motion to report CSHB 93(TRA) out of committee, but then decided not to rescind it. Therefore, CSHB 93(TRA) was reported from the House State Affairs Standing Committee.]

The committee took an at-ease from 9:17 a.m. to 9:47 a.m.

**ADJOURNMENT**

Number 1495

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:48 a.m.