

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

May 14, 2003
8:04 a.m.

MEMBERS PRESENT

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

OTHER LEGISLATORS PRESENT

Senator Ralph Seekins

COMMITTEE CALENDAR

SENATE BILL NO. 146

"An Act relating to a commemorative veterans' license plate; and providing for an effective date."

- MOVED SB 146 OUT OF COMMITTEE

HOUSE BILL NO. 312

"An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date."

- MOVED CSHB 312(STA) OUT OF COMMITTEE

HOUSE BILL NO. 149

"An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil penalty for failure to provide the notice; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 272

"An Act relating to motor vehicle dealers."

- MOVED CSHB 272(L&C) OUT OF COMMITTEE

HOUSE JOINT RESOLUTION NO. 27

Relating to support for a federal appropriation for expansion of the Anchorage Jail.

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 40

"An Act relating to issuance of a driver's license."

- SCHEDULED BUT NOT HEARD

PREVIOUS ACTION

BILL: SB 146

SHORT TITLE: COMMEMORATIVE VETERANS LICENSE PLATE

SPONSOR(S): SENATOR(S) GUESS

Jrn-Date	Jrn-Page		Action
03/17/03	0517	(S)	READ THE FIRST TIME - REFERRALS
03/17/03	0517	(S)	STA, FIN
04/03/03		(S)	STA AT 3:30 PM BUTROVICH 205
04/03/03		(S)	-- Location Change --
04/08/03		(S)	STA AT 3:30 PM BELTZ 211
04/08/03		(S)	Moved Out of Committee
04/08/03		(S)	MINUTE(STA)
04/09/03	0764	(S)	STA RPT 4DP
04/09/03	0764	(S)	DP: STEVENS G, COWDERY, DYSON, GUESS
04/09/03	0764	(S)	FN1: (ADM)
04/29/03		(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/29/03		(S)	Heard & Held
04/29/03		(S)	MINUTE(FIN)
04/30/03	1045	(S)	FIN RPT 3DP 2NR
04/30/03	1045	(S)	DP: WILKEN, TAYLOR, OLSON;
04/30/03	1045	(S)	NR: GREEN, BUNDE
04/30/03	1045	(S)	FN1: (ADM)
04/30/03		(S)	FIN AT 9:00 AM SENATE FINANCE 532
05/02/03	1104	(S)	RULES TO CALENDAR 5/2/03
05/02/03	1104	(S)	READ THE SECOND TIME
05/02/03	1104	(S)	ADVANCED TO THIRD READING

			UNAN CONSENT
05/02/03	1105	(S)	READ THE THIRD TIME SB 146
05/02/03	1105	(S)	COSPONSOR(S): WILKEN, DYSON, STEVENS G,
05/02/03	1105	(S)	FRENCH, LINCOLN, WAGONER, SEEKINS,
05/02/03	1105	(S)	ELTON, TAYLOR, COWDERY, OLSON,
05/02/03	1105	(S)	THERRIAULT
05/02/03	1105	(S)	PASSED Y19 N- E1
05/02/03	1105	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/02/03	1114	(S)	TRANSMITTED TO (H)
05/02/03	1114	(S)	VERSION: SB 146
05/05/03	1305	(H)	READ THE FIRST TIME - REFERRALS
05/05/03	1305	(H)	MLV, STA
05/05/03	1333	(H)	CROSS SPONSOR(S): LYNN, MCGUIRE
05/12/03		(H)	MLV AT 5:15 PM CAPITOL 17
05/12/03		(H)	Moved Out of Committee
05/12/03		(H)	MINUTE(MLV)
05/13/03	1596	(H)	MLV RPT 6DP
05/13/03	1596	(H)	DP: CISSNA, GRUENBERG, FATE, MASEK,
05/13/03	1596	(H)	DAHLSTROM, LYNN
05/13/03	1596	(H)	FN1: (ADM)
05/14/03	1630	(H)	STA RPT 5DP
05/14/03	1630	(H)	DP: SEATON, GRUENBERG, HOLM, CRAWFORD,
05/14/03	1630	(H)	WEYHRAUCH
05/14/03	1630	(H)	FN1: (ADM)
05/14/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 312

SHORT TITLE:SEAFOOD AND FOOD SAFETY LABORATORY

SPONSOR(S): RLS BY REQUEST OF THE GOVERNOR

Jrn-Date	Jrn-Page		Action
05/08/03	1477	(H)	READ THE FIRST TIME - REFERRALS
05/08/03	1477	(H)	STA, FIN
05/08/03	1477	(H)	FN1: (DEC)
05/08/03	1477	(H)	GOV. TRANSMITTAL LETTER FORTHCOMING
05/09/03	1521	(H)	GOV. TRANSMITTAL LETTER RECEIVED

05/13/03		(H)	STA AT 8:00 AM CAPITOL 102
05/13/03		(H)	Heard & Held -- Recessed to Wed. 5/14/03 8:00 AM -- MINUTE(STA)
05/14/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 149

SHORT TITLE: LOBBYING BY NONPROFITS
SPONSOR(S): REPRESENTATIVE(S) WOLF

Jrn-Date	Jrn-Page		Action
03/05/03	0395	(H)	READ THE FIRST TIME - REFERRALS
03/05/03	0395	(H)	STA, JUD, FIN
03/05/03	0395	(H)	REFERRED TO STATE AFFAIRS
04/17/03		(H)	STA AT 8:00 AM CAPITOL 102
04/17/03		(H)	<Bill Hearing Postponed to 4/24/03>
04/24/03		(H)	STA AT 8:00 AM CAPITOL 102
04/24/03		(H)	Scheduled But Not Heard
04/29/03		(H)	STA AT 8:00 AM CAPITOL 102
04/29/03		(H)	Scheduled But Not Heard
05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Heard & Held MINUTE(STA)
05/07/03		(H)	STA AT 8:00 AM CAPITOL 102
05/07/03		(H)	Heard & Held MINUTE(STA)
05/08/03		(H)	STA AT 8:00 AM CAPITOL 102
05/08/03		(H)	Heard & Held MINUTE(STA)
05/13/03		(H)	STA AT 8:00 AM CAPITOL 102
05/13/03		(H)	Scheduled But Not Heard
05/14/03		(H)	STA AT 8:00 AM CAPITOL 102

BILL: HB 272

SHORT TITLE: MOTOR VEHICLE DEALERS
SPONSOR(S): REPRESENTATIVE(S) WEYHRAUCH

Jrn-Date	Jrn-Page		Action
04/16/03	1009	(H)	READ THE FIRST TIME - REFERRALS
04/16/03	1009	(H)	L&C, STA
04/28/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/28/03		(H)	Scheduled But Not Heard
04/30/03		(H)	L&C AT 3:15 PM CAPITOL 17
04/30/03		(H)	Scheduled But Not Heard

05/01/03		(H)	STA AT 8:00 AM CAPITOL 102
05/01/03		(H)	Scheduled But Not Heard --
05/05/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/05/03		(H)	Heard & Held MINUTE(L&C)
05/07/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/07/03		(H)	<Bill Hearing Postponed to Fri. 5/9/3>
05/09/03		(H)	L&C AT 3:15 PM CAPITOL 17
05/09/03		(H)	Moved CSHB 272(L&C) Out of Committee MINUTE(L&C)
05/12/03	1560	(H)	L&C RPT CS(L&C) 6DP 1AM
05/12/03	1560	(H)	DP: LYNN, GATTO, CRAWFORD, DAHLSTROM,
05/12/03	1560	(H)	ROKEBERG, ANDERSON; AM: GUTTENBERG
05/12/03	1560	(H)	FN1: ZERO(LAW)
05/13/03		(H)	STA AT 8:00 AM CAPITOL 102
05/13/03		(H)	Heard & Held MINUTE(STA)
05/14/03		(H)	STA AT 8:00 AM CAPITOL 102

WITNESS REGISTER

SENATOR GRETCHEN GUESS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as sponsor of SB 146.

ROSEMARY HAGEVIG, Executive Director

Catholic Community Services (CCS)

Juneau, Alaska

POSITION STATEMENT: Testified on behalf of CCS to inform the committee that HB 149 would seriously impede CCS's ability to fully meet its mission and would have negative impacts on a number of organizations.

JOHN LYBERGER

Lyberger's Car & Truck Sales, LLC

Anchorage, Alaska

POSITION STATEMENT: During hearing on HB 272, expressed concern about its effects on his business, employees, and customers; explained his company's warranty policy and answered questions.

STEVE ALLWINE, Secretary

Alaska Auto Dealers Association (AADA)

Anchorage, Alaska

POSITION STATEMENT: Testified on behalf of AADA in support of HB 272.

TERI PETRAM

Anchorage, Alaska

POSITION STATEMENT: Testifying on behalf of Lyberger's Car & Truck Sales, LLC, answered questions for the committee during the hearing on HB 272.

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General

Fair Business Practices Section

Civil Division (Anchorage)

Department Of Law

Anchorage, Alaska

POSITION STATEMENT: Answered question during the hearing on HB 272.

ACTION NARRATIVE

TAPE 03-63, SIDE A

Number 0001

CHAIR BRUCE WEYHRAUCH called the House State Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Weyhrauch, Holm, Seaton, Crawford, and Gruenberg were present at the call to order. Representative Lynn arrived as the meeting was in progress.

SB 146-COMMEMORATIVE VETERANS LICENSE PLATE

Number 0025

CHAIR WEYHRAUCH announced that the first order of business was SENATE BILL NO. 146, "An Act relating to a commemorative veterans' license plate; and providing for an effective date."

Number 0036

SENATOR GRETCHEN GUESS, Alaska State Legislature, as sponsor of SB 146, explained that the proposed legislation would set up a commemorative Alaska veterans' license plate, which any Alaskan could purchase. She said the funds would be available for appropriations for any services, but hopefully, she added, for veteran services. She noted that the statute parallels the "children's trust license plate."

Number 0105

REPRESENTATIVE SEATON moved to report SB 146 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, SB 146 was reported out of the House State Affairs Standing Committee.

HB 312-SEAFOOD AND FOOD SAFETY LABORATORY

Number 0128

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 312, "An Act giving notice of and approving the entry into and the issuance of certificates of participation for a lease-purchase agreement for a seafood and food safety laboratory facility; relating to the use of certain investment income for certain construction costs; and providing for an effective date."

Number 0146

REPRESENTATIVE SEATON moved to report CSHB 312, Version 23-GH1134\H, Bannister, 5/13/03, out of committee with individual recommendations and the accompanying fiscal note.

REPRESENTATIVE GRUENBERG reminded the committee that a motion was needed first to adopt Version H as a work draft.

CHAIR WEYHRAUCH asked for that motion.

[TWO UNIDENTIFIED SPEAKERS] simultaneously moved to adopt the committee substitute (CS) for HB 312, Version 23-GH1134\H, Bannister, 5/13/03, as a work draft. [There being no objection, Version H was before the committee.]

CHAIR WEYHRAUCH, referring to Representative Seaton's previous motion to move the bill, announced that there being no objection, CSHB 312(STA) was reported out of the House State Affairs Standing Committee.

HB 149-LOBBYING BY NONPROFITS

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 149, "An Act requiring nonprofit corporations under the Alaska Net Income Tax Act to provide prior public notice of lobbying expenditures and an annual report of lobbying expenditures to the Department of Revenue; providing for a civil

penalty for failure to provide the notice; and providing for an effective date." [Before the committee is Version 23-LS0354\H, which had been amended at previous meetings. Although this document is entitled and referred to as a sponsor substitute, it was not officially such and thus the document only exists in the committee packet.]

Number 0284

ROSEMARY HAGEVIG, Executive Director, Catholic Community Services (CCS), informed the committee that CCS is a social services organization that has been in business in Southeast Alaska for 30 years. She emphasized that CCS is concerned about the implications in this legislation in "all of its versions." She said that she is unable to determine after reading the sponsor statement, exactly what the rationale is for the changes that are proposed.

MS. HAGEVIG stated that CCS has worked diligently on behalf of vulnerable senior citizens, and it has provided a wide range of services for families and children. Ms. Hagevig said that CCS's mission statement is clear. She noted that it is on file with the Department of Commerce, and is part of CCS's incorporating papers. She said she would read the mission statement for the record. It read as follows:

Catholic Community Service advocates and offers social service opportunities for all Southeast Alaskans, emphasizing social justice and compassion. We accomplish this mission by fostering the self-sufficiency and dignity of individuals and families affirming diversity in culture, faith and way of life.

MS. HAGEVIG pointed out that it is a two-prong mission: CCS provides services on the ground 24 hours a day, 7 days a week, and 365 days a year; it also has an obligation to advocate for the vulnerable people it serves.

MS. HAGEVIG revealed that CCS receives funding through grants and contracts from the federal, state, and local governments, as well as from tribal organizations. She stated, "These are clearly restricted dollars and are never used for advocacy or lobbying." She said that CCS's contributors understand the scope of work it does and expects CCS to fulfill its mission. [House Bill 149] would seriously impede CCS's ability to fully meet its mission, she stated. She said she thinks that it's important for the committee to understand that the proposed

legislation would have "really negative impacts in a very broad-brushed way for a number of organizations."

Number 0525

REPRESENTATIVE SEATON noted that the federal law changed the limit a "501(c)(3)" [nonprofit organization] could spend from "an insignificant amount of this money," to 20 percent of its money. He asked Ms. Hagevig if she could foresee ever spending 20 percent of CCS's funds on lobbying.

MS. HAGEVIG replied that that would be her fondest wish; however, an organization such as CCS would never ever have that kind of money available to it. She revealed that CCS spends a miniscule amount of its total budget on advocacy. She added that she cannot envision a time when CCS would "ever approach 20 percent."

Number 0619

REPRESENTATIVE GRUENBERG said that, technically, there should be a CS before the committee; however, he indicated that there is a typo. He clarified that HB 149 "did not incorporate an amendment that the committee adopted."

CHAIR WEYHRAUCH replied that the committee would have to deal with that another time.

[HB 149 was heard and held.]

HB 272-MOTOR VEHICLE DEALERS

CHAIR WEYHRAUCH announced that the next order of business was HOUSE BILL NO. 272, "An Act relating to motor vehicle dealers." [Before the committee was CSHB 272(L&C).]

Number 0708

JOHN LYBERGER, Lyberger's Car & Truck Sales, LLC ("Lyberger's"), began by saying he has never been sued or sued anyone, and has tried to live a life that considers his fellow man and helps people. He expressed his belief that HB 272 will hurt consumers while making a few people wealthy or wealthier. He also voiced concern for his 40-some employees, cited examples of their generosity, and mentioned thank-you letters, postcards, and gifts from grateful customers. Speaking against Section 1, Mr. Lyberger emphasized that competition is what the United States

of America is all about. Noting that just a short time ago many people bought cars in the Lower 48 to drive or ship to Alaska, he said if customers are treated well, they'll buy in Alaska. He told members that he wants to be not just a little different from other dealers, but as opposite as possible, and he wants people to be 100 percent happy with the vehicles they purchase from Lyberger's; if someone isn't happy with a deal or an automobile, he said he wishes to return that person's money immediately.

Number 1024

REPRESENTATIVE LYNN recalled coming onto Lyberger's lot the previous autumn and seeing vehicles he was interested in. He reported that a young man [who worked there], when asked, said they were new cars.

MR. LYBERGER expressed concern and said, "He cannot be on the premises."

REPRESENTATIVE LYNN further reported that this person hadn't said a word about the vehicles' being manufactured in Canada or that there was no [factory] warranty, for example. He acknowledged that he hadn't gotten to the point of making an offer or going through the paperwork, but said until these hearings began on [HB 272] he'd believed that what appeared to be new cars [at Lyberger's] were new. He said he is a little upset about it.

MR. LYBERGER responded that whether it has 20 miles or 20,000 miles on it, every vehicle off Lyberger's lot is used, and almost all are imported from Canada. Saying every vehicle has a "100 percent warranty," he explained:

If the factory takes care of it, fine. If it does not, ... there's a ... Heritage Warranty is what I put on every vehicle if the factory warranty is not [in] effect on any given vehicle. ... I do not want any [customer] spending ... one dollar, one penny. ... It comes from Lyberger's pocket. I don't want anyone's [warranty] to be better than Lyberger's. I don't want any to be as fine ... as mine.

Number 1270

REPRESENTATIVE HOLM asked what percentage of cars sold in the United States are made in Canada, and whether this is a common practice.

MR. LYBERGER spoke about many [vehicles] coming into the U.S. for auctions and so forth. He said many cars at new-car dealerships in the U.S., Mexico, and Canada are made in Canada.

Number 1333

REPRESENTATIVE HOLM asked whether there is a fairly open border, with few restrictions with regard to automobiles. He also asked about the role of the exchange rate.

MR. LYBERGER mentioned that it is possibly less expensive to purchase vehicles in the Lower 48 and bring them to Alaska, and indicated it is because of the exchange rate [that it is profitable to purchase cars from Canada]. He also indicated vehicles from Canada, the U.S., or Mexico will be identical. Saying Canada was the first to have lights that come on automatically when the car starts, he cited General Motors [vehicles] as an example, noting that there are fines in some places if people don't drive with headlights on at all times.

Number 1530

STEVE ALLWINE, Secretary, Alaska Auto Dealers Association (AADA), testified on behalf of AADA in support of HB 272, as written [CSHB 272(L&C)]. He noted that he is also the past-president of AADA. He stated that the attorney general's office and AADA share the goal of providing clear and concise corrections to previous legislation, while retaining the legislative intent. He stated it is his belief and that of those dealers he represents that HB 272 accurately provides those corrections.

MR. ALLWINE noted that HB 272 is comprised of 8 sections. Section 1 addresses AS 08.66.015, which has been in effect for approximately 10 years. The remaining sections of HB 272, he said, would clarify statutes from "the prior session dealer bill that was passed and became law." Mr. Allwine said that Section 1 of HB 272 serves to change AS 08.66.015. Currently, he noted, under that statute, no new- or used-car dealers are permitted to sell a current-model used vehicle, unless they have the sales and service agreement - like a franchise agreement - with the manufacturer of that specific vehicle; however, Section 1 would [provide exceptions to that restriction]. Mr. Allwine

highlighted some of the exceptions [found on page 2, lines 2-10 of the bill] and illustrated with examples how they would work. Without the amendments proposed in Section 1, he said, "everybody's out of compliance."

MR. ALLWINE noted that there has been a lot of discussion concerning Canadian vehicles, as related to this legislation. He said he had heard questions regarding how vehicles are moved between one country and another, and what the definition is of a grey-market vehicle. He explained that [vehicle] manufacturers have plants throughout Canada, the U.S., Mexico, and Brazil. The vehicles are built and then the manufacturers designate which market the vehicles will be shipped to. For example, Mr. Allwine noted that he has trucks that are built in Mexico and minivans that are built in Canada. He added that a designation is also made that these vehicles are not to be resold "in a foreign country."

MR. ALLWINE referred to a billing document [used by dealers], which he said he provided to the committee. He read a portion of it as follows:

The vehicle's manufactured to meet specific United States requirements; this vehicle is not manufactured for sale or registration outside of the United States.

MR. ALLWINE continued as follows:

Knowingly selling -- if you're a Canadian dealer and you sell to an importer-somebody who imports into our country, these vehicles will place your sales and service agreement, or your franchise agreement, if you choose to call it that, in serious jeopardy. They have terminated dealer agreements in Canada over these issues, so it's not in that dealer's interest to do that. So, when you start at the beginning, the acquisition of these vehicles is in question, at best. Essentially what they do is they hire college kids ... [who] go out and buy cars under the guise of consumers. Then those cars are imported to this country.

MR. ALLWINE informed the committee that the first thing that has to happen when a vehicle comes into [the U.S.] is for the speedometer to be changed from kilometers to miles. He noted that there are two situations that can arise: One, he explained, has to do with an error in the conversion, which

could be an honest mistake. He said that this type of error will cost the consumer thousands of dollars and significant inconvenience, because, the issue of "miles unknown" on an odometer statement is significant and will render a vehicle virtually worthless. Two, he revealed, the temptation for odometer fraud is great. The added value of a vehicle with 3,000 miles versus a vehicle with 23,000 is, conservatively, over \$600 a vehicle, he said. He added that the equipment to [tamper with an odometer] is available over the Internet for approximately \$1,800. He referred to a recent article that says that this type of fraud is on the rise.

MR. ALLWINE turned to another issue regarding titling a vehicle. He stated, "The potential for a "flood" or a totaled vehicle to be dumped on the Alaska market is great. The recourse to the importer, he said, is minimal. He asked, "[Have you] ever tried to sue somebody in another country?" He also asked, "[Have you] ever tried to take action on your credit card in another country?" He said it is a difficult operation.

MR. ALLWINE turned to warranty issues, which he said are a big problem with a manufactured used car. Many manufacturers, in an effort to stem the tide of vehicles into [the U.S.] "in this manner" have "eliminated all their warranty." The offering of a no-charge service contract, under the guise of a warranty creates a false impression that the consumer is getting a new vehicle with a new vehicle warranty, he opined. He commented that he believes he included "something that indicates it's a warranty" in the attachment provided to the committee. He said, "The fact is, if you're a dealer, you're paying for it, and if you're paying for it - even if it's no charge - you're attaching it to the car deal, and it's a service contract. That's the long and short of it."

MR. ALLWINE stated that new-car dealers invest significant sums of money in training, facilities, and tools. For example, he noted that a 2004-model vehicle requires about \$8,500 in training and special tools. He said, "That's for one of the new ones we have coming up." He added, "Oh, by the way, that doesn't include the training, because it seems like none of the training ends up in the great state of Alaska."

MR. ALLWINE stated that responsibility is a big issue. He listed the purchase, the problems, the tools, the people, the training, and said, "None of this is offered by a used-car dealer." If [consumers] have a problem with a current-model used vehicle, [the used-car dealer] is going to tell them to

take it to a new-car dealer to have it fixed. He added, "It's always the new-car dealer."

MR. ALLWINE referred to previous testimony and indicated that there was an impression left that there's a lot of certification that goes on before "this vehicle comes into this country"; [that] the importers are certified. Mr. Allwine stated that there's no certification required. He remarked that a little bit of research indicates that "the registration to import into our country, from our government, is simply 'stuff,' it doesn't necessarily have to be cars - it can be anything." He clarified that it is a commerce registration, not a technical one. He said that the [U.S.] Department of Transportation and the National Highway Traffic Safety Administration do not verify or certify speedometers or "any of that traffic or that movement." He noted one exception: "Our government requires a certification of content." The only people who are authorized to certify that content are the manufacturers; the importers do not have this ability. He added, "And quite frankly, the manufacturers will not certify the content." He continued as follows:

How do they do it? How do they get them across? It's real simple. They just print a copy off the Internet and they hand it to the customs people, and away they go.

MR. ALLWINE stated that the final argument is in regard to legislative intent. At the time that the statute was originally enacted, he said, numerous consumers and new-car dealers, both in Alaska and Washington had lost hundreds of thousands of dollars. The reason for that loss, Mr. Allwine noted, is "the brokering of new cars and trucks." He stated that it was the intent of the original law to eliminate the opportunity to sell new cars without being a franchised new-car dealer, "so as to rectify the existing situation at that time and to provide protection to the public." He explained as follows:

They did this by providing that an individual may not hold him or herself out to be a new-car dealer, unless they hold a sales and service agreement for that specific product, [and] that they may not represent a used car as a new car

The wholesale manufacture and importation of these cars is in violation of the original statute's intent.

These are new cars under a thin veil of being a used car.

MR. ALLWINE noted that one of the attachments that he provided to the committee, in addition to showing a warranty, shows the miles on "those cars." He remarked, "And that was an advertisement out of an Anchorage paper." He said, "A car with seven miles on it is still a new car. They may call it a used car, but this is the manufacturing of a used car to circumvent the statute in our state." The statute as it stands right now, he reiterated, doesn't allow anybody to sell a current-model used car. The proposed legislation, he reminded the committee, would change the statute so that "new- or used-car dealers have the ability to sell a current-model used car, but it does not allow for the brokering or the wholesale manufacturing and importation of a Canadian vehicle." Mr. Allwine said that, ultimately, if a consumer has a difficulty with a current-model used car, he/she only turns to one source, which is the new-car dealer. He posited that it is not appropriate for a used-car dealer to have the ability to sell a new car, without having any responsibility or obligation beyond the sale.

Number 2231

REPRESENTATIVE LYNN asked Mr. Allwine who placed the advertisement to which he previously referred, because he noted that the name was not showing on the handout.

MR. ALLWINE offered to hand out a clearer copy of that advertisement to the committee.

Number 2250

The House State Affairs Standing Committee meeting was recessed at 8:36 a.m. to a call of the chair.

Number 2251

CHAIR WEYHRAUCH called the meeting back to order at 9:36 a.m. Present at the call back to order were Representatives Holm, Seaton, Gruenberg, and Weyhrauch. Representatives Dahlstrom, Lynn, and Crawford arrived as the meeting was in progress.

Number 2275

REPRESENTATIVE HOLM indicated a problem between "the timing" regarding new cars versus "new-used cars." He noted that

"normal course of business" is not defined in statute. He asked Mr. Allwine where he thinks the law could be changed [to] be "somewhat of a fallback position for both used-car dealers and new-car dealers."

Number 2370

MR. ALLWINE answered that the bill, as written, is an attempt to level the playing field on used vehicles. He said it is recognized that rental fleets will, historically, turn their vehicles in approximately a six-month period. He added that manufacturers require a retention [of] rental vehicles for a specific period of time, which traditionally has been six months.

MR. ALLWINE said that Representative Holm raises an issue that Mr. Arpino had indicated yesterday, regarding a vehicle that's a repossession. Ultimately, he said, [the intent of the bill] is to correct the statute in such a manner that new-car dealers and used-car dealers are in compliance. He said, "There are essentially four ways that any of us would end up with another ... manufacturer's vehicle as a current-model vehicle." He listed the four ways: taking it as trade-in; buying it directly from a consumer; [obtaining the vehicle] from a rental [fleet], either directly, or through auctions; or "a repossessed vehicle." He continued:

So, if you were to include repossessed vehicle, you have covered all of the legitimate sources of used vehicles that would be available to all of the dealers.

Number 2491

REPRESENTATIVE SEATON referred to the previous testimony of someone who obtains most of his cars at dealer auctions. He said that it appears that [the proposed legislation would] exclude "those sources of cars."

MR. ALLWINE responded that that is incorrect. He clarified, "If it ... has been a rental vehicle and it has been retained for a period of six months - as the bill states - that vehicle is available for sale to any dealer."

REPRESENTATIVE SEATON clarified that he was not talking about rental cars, but about "other cars." He said, "I mean there are dealer auctions on used cars all the time." He stated his

understanding that the proposed legislation "wants to carve out an exception so that no current-year model could be sold at dealer auctions to anyone other than a dealership that has a service and sales agreement with a manufacturer."

MR. ALLWINE stated that that is not exactly correct. He continued as follows:

These are the basic sources that I have cited; these are how the cars are run through an auction. This would not permit any dealer to buy a vehicle that was imported to this country as a manufactured used car with a handful of miles on it, at an auction.

REPRESENTATIVE SEATON asked Mr. Allwine to "forget about the 'imported to this country,' because this doesn't talk about that." He said that [HB 272] addresses any current-model-year car. He stated his interpretation that HB 272 says that a used-car dealer cannot go to an auction and buy any car that's a current-year model. The only people who can do so, he continued, would be the manufacturers' licensed dealers.

MR. ALLWINE responded that he believes Representative Seaton is reading [the language] incorrectly, because the source of those used cars would either be a lender offering vehicles that have been repossessed, or rental vehicles. He asked Representative Seaton to remember, "We're doing this very small window of only current-model year." He noted, "Those are the prime sources, excluding - as you mentioned before - ... imported vehicles."

Number 2560

REPRESENTATIVE SEATON said that he has purchased vehicles through the insurance auction frequently. The cars may be "dinged up," and some of them are current-year models that are sold. However, he offered his understanding that, according to HB 272, only the manufacturer or dealer could buy a current-model-year car.

Number 2586

MR. ALLWINE replied as follows:

The type of vehicles you're citing - if you chose to include that, I suppose it would be acceptable; however, those vehicles - if they're disposed of by an insurance carrier, and they're current-model vehicles

- those vehicles are usually totaled vehicles, and they're traditionally not purchased by new- and used-car dealers. That's a little bit out of the realm.

Number 2669

REPRESENTATIVE GRUENBERG noted that the committee had heard a lot of testimony yesterday regarding auctions. He stated his understanding that used-car dealers buy their vehicles at auctions, but under this proposed legislation they would no longer be able to do that. He said that he would like to have "a person from that group" join Mr. Allwine at the witness table to find out exactly what it is "they are not able to do under the bill," and to hear [Mr. Allwine's] response.

Number 2700

TERI PETRAM, testifying on behalf of Lyberger's Car & Truck Sales, LLC, joined Mr. Allwine at the witness table per the request of the chair.

REPRESENTATIVE GRUENBERG repeated his comment regarding the previous day's testimony from used-car dealers. He asked Ms. Petram, "Were you talking about exclusively for an auction?"

MS. PETRAM answered yes.

REPRESENTATIVE GRUENBERG offered his understanding that the point of contention between Mr. Allwine and Ms. Petram is in regard to the ability to purchase vehicles at foreign auction. He asked if that is correct.

MS. PETRAM answered yes.

[AN UNIDENTIFIED SPEAKER commented, via teleconference, that that is not correct.]

Number 2775

CHAIR WEYHRAUCH told the unidentified speaker that he is out of order.

MR. ALLWINE stated that HB 272 will carve out the importation and manufacture of used vehicles from Canadian markets - vehicles that were not intended for the United States market. He added, "It will not preclude Lyberger's or myself from buying current-model vehicles at auction, if they come from the source

of rentals or potentially - if you choose to include it - lenders repossessions. It will preclude grey-market cars."

REPRESENTATIVE GRUENBERG noted that he doesn't know the meaning of grey-market cars; however, he said that he doesn't want to get into that now. He asked, "Why shouldn't they be able to buy cars at a foreign auction?"

MR. ALLWINE answered that it's not actually a foreign auction; the auctions are in the U.S. He opined, "This does not place a hardship on a used-car dealer." He revealed, "These vehicles, when they go through the auction, are disclosed as Canadian vehicles."

REPRESENTATIVE GRUENBERG asked, "Why should you be able to buy these vehicles, and not them?"

MR. ALLWINE replied that, based on having a franchise agreement with a manufacturer, that manufacturer is unwilling to "give me that latitude for very long." He clarified, "In other words, I also will not be able to buy those." He continued as follows:

And if you chose to say, "What's good for one is good for the other," that would certainly be acceptable to me; but the fact is, the manufacturers control that situation with us, and they ... don't permit us for very long to go purchase Canadian vehicles and resell them in this market.

REPRESENTATIVE GRUENBERG asked Mr. Allwine if he would be willing to have everybody prohibited from doing that.

MR. ALLWINE answered, "I'd love it, I just don't know that it's appropriate at this time. But I would love it, yes, sir."

REPRESENTATIVE GRUENBERG asked if that would be acceptable to the used-car industry.

Number 2900

MS. PETRAM answered that there is more than just her interests involved in HB 272. She said that there are auctions that employ hundreds of people who would be effected by this. She noted, "And where they get their vehicles is different than where Lyberger's gets [its] vehicles."

Number 2964

REPRESENTATIVE SEATON said it sounds like Mr. Allwine wants a law passed that will say that it is illegal to import current-model Canadian vehicles into the U.S. for sale, which would involve changing a law that would change a trade relationship between the U.S. and Canada. He stated that he is not particularly comfortable [in] doing that.

MR. ALLWINE stated, "That is not what we're asking [the legislature] to do." He said he would defer to the attorney general's office for further clarification.

TAPE 03-63, SIDE B

Number 2983

CLYDE (ED) SNIFFEN, JR., Assistant Attorney General, Fair Business Practices Section, Civil Division (Anchorage), Department Of Law, testified that he has been working with the auto dealers on language for HB 272, but primarily the language contained in Sections 2-8. He emphasized that the bulk of the bill is contained in those sections, which are important revisions to the current auto dealer statute. He categorized those changes as points of clarification and some deletions [of language] that doesn't apply to the way car dealers advertise and sell used cars in Alaska. He said, "So, with respect to Sections 2-8, we request your support."

MR. SNIFFEN referred to the controversial Section 1. He turned to a recent question regarding whether or not this law would have an impact on foreign trade, whether there are some North American Free Trade Agreement (NAFTA) issues that come up, and whether it's the legislature's province to interfere with these trade relations. He continued as follows:

If there is a problem, it already exists, because the current statute already prevents these things from happening. So, I don't know that the language of Section 1, in HB 272, would change anything. ... [HB] 272, in a sense, carves out an exception to this problem that allows at least some of these transactions to proceed. That is, transactions that involve the acquisition of a Canadian-manufactured vehicle or a vehicle manufactured for sale in Canada from an ordinary consumer, from a rental fleet, and from some other areas.

I've listened to the testimony from Jim Arpino and from the representative from Lyberger's, and I think there [have] been some good points raised, in the sense that: "What if you want to go to an auction and purchase a vehicle manufactured for sale in the United States and bring it up to Alaska? Would this legislation prohibit that?" And the answer is: "Well, the current legislation already prohibits that." The changes suggested by HB 272 do not seem to account for that sort of situation, and I'm not certain whether or not it should or should not. There are probably always going to be some of these nuances that come up that we'll have to ... work with ... into the future, to decide if there are issues that we need to address through further amendments to the legislation.

MR. SNIFFEN stated that the position of the attorney general (AG) on Section 1 is to be looking out for the interests of the consumers. The AG's office, he added, would prefer to stay out of the battle between the new- and used-car dealers. Notwithstanding that, he said he thinks some of the comments Mr. Allwine made were appropriate, because there are situations where consumers are simply not aware that these vehicles do have some of these issues. For example: the vehicles may not have manufacture warranties; they do not have Alaska "lemon law" protections, because they are used vehicles; and they have had odometer switches done, which may or may not have been done in an inappropriate fashion. He added that [the AG's office] has not investigated the latter, therefore it cannot testify with any certainty on whether "the swaps" are consistently done in violation of law, or not.

MR. SNIFFEN stated that those types of disclosures, at a minimum, need to be made. He added that he is uncertain whether or not they are done in all circumstances and, based on an earlier question by one of the representatives, apparently they are not made all the time.

Number 2810

MR. SNIFFEN stated his belief that the importation of these vehicles manufactured for sale in Canada is illegal. He said he thinks they are legally imported and that the importation process is proceeding in accordance with state and federal law. He continued as follows:

Where I think the problem lies is upstream from the importation process. There is just simply no way you can get a vehicle onto Mr. Lyberger's lot ... in Anchorage that is a current-model vehicle with 100 miles on it, manufactured originally for sale in Canada, that doesn't involve some kind of, if not illegal, at least illegitimate practice upstream somewhere: ... a dealer violating a franchise agreement; ... an importer who has set up a dummy company to buy vehicles somehow; [or] ... an importer who's paying college kids to buy these vehicles. There is a transaction of that kind that is taking place, that results in these vehicles getting into the hands of the importers, and then they're imported, probably illegally, into the United States, and they end up on used-car dealer lots.

If we want to open up a market for those kinds of vehicles in Alaska, you're going to encourage that kind of activity to continue. And I'm not certain how other states have dealt with this issue. I'm sure this happens in some of the bordering states in the Lower 48. I don't know if there's legislation considered in those states to stop this, but Alaska doesn't need to follow necessarily, we can perhaps lead in this area, since we do have a close connection with our Canadian friends.

And it is going to be a policy call on whether or not we want to do something to prohibit that practice. Actually, we already have law that prohibits that practice. And if we're going to keep that law, do we want to carve out at least some exceptions that allow some of the more legitimate transactions to take place, so new- and used-car dealers can sell at least some of these cars?

Number 2710

REPRESENTATIVE SEATON asked Mr. Sniffen to confirm that his feeling is that these cars are probably being imported legally, but there was probably a Canadian franchise violation that most likely occurred before the importation.

MR. SNIFFEN responded that that is the understanding of [the AG], based on reports received from importers in Alaska and from

some of the new- and used-car dealers. He reiterated that the AG has not investigated this issue in any detail.

REPRESENTATIVE SEATON said that he doesn't know if the franchise agreements are private or have to do with Canadian laws. He asked Mr. Sniffen what he is suggesting be done by the legislature.

MR. SNIFFEN said he doesn't think that the AG or the new-car dealers proposing [Section 1] are suggesting that [the legislature] should do something to stop those kinds of transactions. He added that, frankly, he doesn't think that there is anything that can be done to stop those things from happening. He continued as follows:

I think it's meant to just point out that these used-car dealers seem to be suggesting, "Hey, we're going to auctions and we're buying these cars and doing everything [legally]." Well, they are, because they're ignoring some of these other problems that occur upstream. And to say that these vehicles are imported ... legally and [that] everything is fine and dandy is only good to a point. Sure, they're fine and dandy ... once you get to the importers, but upstream from that there are some transactions that shouldn't be taking place, and if dealers in Canada and, I think, laws in Canada were enforced properly, they wouldn't find their way to the importer.

... The current law actually says you couldn't sell these cars anyway, and HB 272 continues in that same vein, but at least carves out exceptions for certain kinds of transactions.

Number 2577

REPRESENTATIVE GRUENBERG stated that he has a large number of questions on the entire bill. He said he wanted [the committee] to at least get a handle on what he called, "the Canadian problem." He remarked that the more testimony he hears, the more questions he has.

CHAIR WEYHRAUCH stated that his intent is to ask that the bill be moved out of committee, so he invited Representative Gruenberg to ask his questions of Mr. Sniffen.

Number 2534

REPRESENTATIVE LYNN moved to report CSHB 272(L&C) out of committee with individual recommendations and the accompanying fiscal note. There being no objection, CSHB 272(L&C) was reported out of the House State Affairs Standing Committee.

ADJOURNMENT

Number 2504

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:51 a.m.