

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

May 1, 2003

2:20 p.m.

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Gary Stevens
Senator Hollis French

MEMBERS ABSENT

Senator Bettye Davis

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 214(JUD)

"An Act relating to the recovery of punitive damages against an employer who is determined to be vicariously liable for the act or omission of an employee; and providing for an effective date."

MOVED CSHB 214(JUD) OUT OF COMMITTEE

SENATE BILL NO. 186

"An Act relating to authorizing charitable gaming permittees to use up to five electronic gaming machines at certain locations with certain liquor licenses or certain other places where access is restricted to persons 21 years of age or older as an authorized form of charitable gaming; limiting the maximum number of electronic gaming machines for which a vendor may have an endorsement to not more than 10; relating to licensing manufacturers and distributors of electronic gaming machines; relating to local prohibition of electronic gaming; limiting the authority of municipalities to tax electronic gaming machines; relating to penalties concerning charitable gaming; making conforming amendments; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 178

"An Act establishing a state lottery; and providing for an effective date."

EARD AND HELD

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 184(L&C) am
"An Act relating to individual deferred annuities; and providing
for an effective date."

MOVED SCS CSSSHB 184(L&C) OUT OF COMMITTEE

SENATE BILL NO. 13

"An Act prohibiting discrimination in insurance rates based on
credit rating or credit scoring; and providing for an effective
date."

MOVED SB 13 OUT OF COMMITTEE

PREVIOUS ACTION

HB 214 - See Labor and Commerce minutes dated 4/29/03.

SB 186 - No previous action to consider.

SB 178 - No previous action to consider.

HB 184 - See Labor and Commerce minutes dated 4/29/03.

SB 13 - See Labor and Commerce minutes dated 4/8/03 and 4/22/03.

WITNESS REGISTER

Ms. Sarah Nelson
Staff to Representative Samuels
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HB 214.

Senator Taylor
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 186 and SB 178.

Ms. Willow Seay
Staff to Representative Coghill
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on HB 184.

Ms. Katie Campbell, Life and Health Actuary
Division of Insurance

Department of Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Commented on HB 184.

Ms. Linda Hall, Director
Division of Insurance
Department of Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Commented on SB 13.

Senator Cowdery
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 13.

Ms. Sarah McNare Grove
Property Casualty Actuary
Division of Insurance
Department of Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: Commented on SB 13.

ACTION NARRATIVE

TAPE 03-28, SIDE A

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at 2:20 p.m. Present were Senators STEVENS and SEEKINS.

2:21 - 2:23 p.m. - at ease

CSHB 214(JUD)-PUNITIVE DAMAGES AGAINST EMPLOYERS

CHAIR BUNDE announced CSHB 214(JUD) to be up for consideration.

MS. SARAH NELSON, staff to Representative Samuels, sponsor, said she had no further comments to make.

SENATOR SEEKINS moved to pass CSHB 214(JUD) with attached fiscal note from committee. SENATORS STEVENS, SEEKINS and BUNDE voted yea and it passed from committee.

SB 186-CHARITABLE GAMING/ELECTRONIC GAMING

SB 178-STATE LOTTERY

CHAIR BUNDE announced that they would next consider SB 186 and SB 178, but Senator Taylor, sponsor, wanted to comment first.

SENATOR TAYLOR said of both bills:

...were sponsored for the purpose of generating revenue for the State of Alaska, as opposed to generating revenue only through taxation and fee increases. I have always been an opponent of taxation and fee increases and felt that at least this was another option. Both lottery, which is one bill, and video gaming, which is the other bill, would provide somewhere in the neighborhood, I think conservatively, of \$60 million to \$70 million worth of additional revenue that we would not have to go out and do in the form of taxes. But, I've been informed by my leadership that I've discussed this matter with just today, that they don't wish those items - or have indicated to me that those items will not pass and it just seems a waste of our time to discuss something and work on it and try to fabricate a better bill and so on that's not going to be given the opportunity to pass anyhow, since the Majority seems dead set on taxes and additional fee increases as their revenue sources. With that, Mr. Chairman, I would appreciate it. I thank you very much personally for taking the time to schedule these matters and I know that we share some commonality in reaching for additional revenue sources, but I don't believe that's going to happen....

CHAIR BUNDE said he looked forward to getting more information on these issues and set SB 186 and SB 178 aside.

SENATOR FRENCH arrived at 2:25 p.m.

CSSSHB 184(L&C)-INDIVIDUAL DEFERRED ANNUITIES

CHAIR BUNDE announced CSSSHB 184(L&C) to be up for consideration,

SENATOR SEEKINS moved to adopt Amendment 1.

CHAIR BUNDE objected for discussion purposes and asked Ms. Seay to explain it.

MS. WILLOW SEAY, staff to Representative Coghill, sponsor of HB 184, explained that the amendment had been added on the House floor and that the sponsor would feel more comfortable if it was removed because it adds confusion to the bill.

MS. KATIE CAMPBELL, Life and Health Actuary, Division of Insurance, explained that the amendment proposed on the House floor was intended to make sure that it would only apply to contracts that are issued after the effective date of the act. So if anyone has an annuity contract today, it won't change that.

CHAIR BUNDE announced that there were no objections to Amendment 1 and it was adopted.

SENATOR SEEKINS moved to pass SCSSS CSHB 184(L&C) from committee with its attached fiscal note. SENATORS FRENCH, SEEKINS, STEVENS and BUNDE voted yea and HB 184 passed from committee.

SB 13-INSURANCE DISCRIMINATION BY CREDIT RATING

CHAIR BUNDE announced SB 13 to be up for consideration and that the committee had heard from the sponsor and the insurance industry, and would now hear from the administration.

MS. LINDA HALL, Director, Division of Insurance, said she wanted to comment on the state of the insurance marketplace in Alaska:

If you had an opportunity to review the Division of Insurance report on credit scoring, there are listings in the back of that report of insurance companies doing business in Alaska. These are rather lengthy lists of insurance companies and it appears to suggest that there are large numbers of insurance companies writing business here. In fact, the number of companies with active writings in the state is really quite small. In the most recent annual report of the division, the top two writers of private passenger insurance - between the two of them - write 42 percent of our market. There are then seven companies that have less than a 2 percent market share. So we have really not a lot of companies actively writing business here.

In the homeowners market the top two companies write approximately 65 percent of our insurance market. We

then drop to percentages of 6 percent with eight companies writing less than one percent of that market. So, in general, we don't have very many private passenger or homeowners companies actively writing business and, in my opinion, this creates a fairly fragile market place.

CHAIR BUNDE asked if she could comment about our loss profit ratio in Alaska and whether it is a reasonable place to do business.

MS. HALL answered that the next part of her testimony would address rates and losses:

Rates for personal insurance have been increasing nationally and we're seeing similar trends in Alaska. In 2001 the rates that we saw in the private passenger homeowners markets ranged in the 5 percent to 8 percent increases. In 2002, many of those increases were in double digits. Those numbers are in Alaska.

Last week, I received from a national organization of other insurance regulators information that indicated in March of 2003 the consumer price index had an 8.9 percent increase in auto insurance rates nationally. So, we're seeing fairly dramatic increases in, particularly, auto insurance. That does lend the rate, Mr. Bunde, to losses and to loss trend. In 2001, private passenger lines in Alaska, Alaskans [were] in the top five companies in the number of losses - the total dollar amount of losses - in the country - we were in the top five states with losses.

There also was an overall writing deficit of 18 percent. So, the companies writing business here on the underwriting basis had an 18 percent deficit - an overall negative return on net worth of 6 percent. So, auto insurance companies in Alaska are losing money and at a greater rate than most other states in the country.

The 2001 homeowners market faired better. Alaska was in approximately the middle of the range with an 8 percent underwriting profit. So, there was some profitability in those lines. Some of the loss trends that have hit other areas of the country really haven't hit here. For example, and I'm sure you've all

read, there have been mold claims. Mold is an increasing cause of loss to the insurance industry. That really hasn't hit Alaska - mold resulting from water damage or construction defects that result in mold - and it can be toxic.

We also, as we look at those issues, see specific unique Alaska characteristics. Sometimes the cost of loss adjustment is higher here because of travel. We tend to have higher cost of auto repair; we tend to have higher medical costs. I've heard one of the health insurance people estimate for me that our medical costs in Alaska are approximately 30 percent higher than they are in Washington. So, there are higher costs of insurance here due to those types of factors. And, I bring some of that up because I would like to make sure that we keep the Alaska market in mind as we discuss this issue.

MS. HALL iterated the division's mission, which is threefold: to develop, interpret and enforce insurance statutes and regulations; to protect and educate the consumer; and to enhance the insurance business market. With those goals in mind, she offered her views on the credit scoring issue:

One, there appears to be some significant correlation between credit history and losses. I think this appears to be a valid predictor of losses. It's a tool that I don't feel should be totally banned. However, I strongly feel that any use of credit scoring in insurance should be accompanied by appropriate consumer protections. There are a variety of specific measures to be considered as policy decisions. These would include things like prohibitions on the use of discriminatory factors - income, age, zip codes, ethnic groups, marital status - those types of prohibitions. Prohibitions against consideration of the absence of credit, prohibitions against using collection accounts with medical industry codes and other restrictions as deemed appropriate by the legislature.

Foremost on my mind on this issue is the requirement that credit-scoring models for underwriting and rating be filed with the Division of Insurance for approval.

CHAIR BUNDE asked, "How do we achieve that?"

MS. HALL replied that insurance companies make filings and the process is outlined in statute.

CHAIR BUNDE asked if legislative action would be required to achieve the proprietary information that she recommends.

MS. HALL replied that she thought the requirement to file with the division should be in the bill. Currently rates are filed and underwriting factors are not filed and both need to be filed with credit scoring. She encouraged them to make that information confidential.

CHAIR BUNDE commended that as an amendment to the sponsor.

MS. HALL said the filing requirement would provide the ability for the division, as the industries' regulating authority, to review the models to prevent some of the secret score black box allegations. She also suggested instituting a dispute resolution process for consumers and to have them deal directly with the insurance company rather than the credit reporting bureaus. She thought they would respond in a timelier manner. There has been testimony about how long it takes to correct inaccurate credit reports with some of the agencies.

Her final recommendation was using Washington State language that requires consideration of substantive underwriting factors in addition to credit. Some bills she has seen prohibit the sole use of credit. She urged them to try to reach a middle ground with legislation that provides protection for Alaskan consumers and allows insurance companies to use credit as one of the many tools in evaluating risk.

CHAIR BUNDE said that some companies that testified in the committee indicated that if there is a rate change or if credit scoring affects a rate, they will notify the consumer. He didn't know if all companies do that and asked if she thought that should be required in this legislation.

MS. HALL replied that legislation should address notification of adverse action.

SENATOR COWDERY asked if her division had access to proprietary information from companies that indicate how they use and determine their credit scores now.

MS. HALL replied no.

SENATOR COWDERY asked if they should.

MS. HALL replied yes.

SENATOR STEVENS asked her to talk a little more about the dispute resolution process.

MS. HALL responded that she didn't have a specific proposal, but Alaska statute has a rating mechanism that allows an insured who feels rates have been inappropriately or improperly applied to appeal to the insurance company and she thought that could be expanded to allow a consumer to appeal to the insurance company if incorrect credit information was used.

SENATOR SEEKINS asked if she would be able to give them an idea of profit and loss for the last five years.

MS. HALL answered that she couldn't answer that right now, but could get that information for him.

SENATOR SEEKINS asked what companies presently use credit scoring in Alaska.

MS. HALL replied that they have a list that is fairly lengthy. She offered to provide him with the list.

SENATOR SEEKINS asked for the names of the major companies.

MS. HALL replied that Allstate Insurance, AIG, Geico and Safeco use credit information for underwriting; USAA, General Casualty, Leader - Progressive use it for rating.

SENATOR SEEKINS asked who the two major insurers are that cover 45 percent of business.

MS. HALL replied Allstate and State Farm.

SENATOR SEEKINS asked if Allstate uses it and State Farm doesn't.

MS. HALL replied that both of them use it for underwriting.

SENATOR FRENCH asked how many different variables an insurance company takes into account when it sets someone's insurance rates.

MS. HALL deferred that query to their property casualty actuary, Sarah McNare Grove, who reviews those filings.

SENATOR FRENCH said he continues to hear that credit scoring is an important tool and he wondered how many tools there really are.

MS. SARAH MCNARE GROVE, Property Casualty Actuary, replied that it would depend on the company, but the kind of variables that are used for private passenger auto insurance, for instance, are the age of the driver, the make of the vehicle, driving record, and gender. In addition to that, some companies add credit.

SENATOR FRENCH said then that he understands that there may be as few as five variables.

MS. GROVE replied yes, that's possible.

SENATOR FRENCH asked if some companies get a little more in-depth than that.

MS. GROVE replied that it varies.

SENATOR FRENCH asked when credit scoring became a common practice in the industry.

MS. GROVE replied that the first filing happened in Alaska in approximately 1997 or '98.

SENATOR FRENCH asked if before 1997-98, rates were going up.

MS. GROVE replied that she didn't remember, but would get that information for him.

SENATOR FRENCH responded that he would be interested in looking back 10 years on the profit and loss statements - mainly because three years ago we entered into a major bear market and everybody has had a hard time making money, not just insurance companies. He wanted to make sure they were not hiding a cyclical loss behind one tool.

MS. GROVE replied that one of the other reasons the division would very much like to have rating and underwriting models filed is to provide for a full range of review of those types of factors used in rates to make sure that what's being filed is really appropriate. Profitability would certainly be one of those review items.

SENATOR FRENCH asked what Ms. Hall did before she recently took this job.

MS. HALL replied that she has been in the insurance industry for 17 years in Alaska; she was an insurance agent and has represented Alaska on a National Board of Insurance Agents and felt that she has a broad perspective of what is occurring nationally.

SENATOR COWDERY said that she didn't have access to information about how insurance companies determine rates, but that she would like to and asked what the legislature could do to help.

CHAIR BUNDE interrupted and said he had an idea. He asked for the assurance of the sponsor and the chair of the Judiciary Committee (where SB 13 goes next) to work together to strengthen this bill and make it more consumer friendly while keeping insurance profitable, and said he wanted to move the bill on to the next committee.

SENATOR SEEKINS moved to pass SB 13, version D, from committee with individual recommendations. SENATORS FRENCH, STEVENS, SEEKINS and BUNDE voted yea and SB 13 passed from committee.

CHAIR BUNDE adjourned the meeting at 2:55 p.m.