

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

April 6, 2004

2:04 p.m.

**TAPE(S) 04-31**

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 27

"An Act relating to pesticide use; relating to program receipts collected by the Department of Environmental Conservation for registrations and licenses relating to pesticides; and providing for an effective date."

MOVED CSSB 27(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 341

"An Act relating to the dive fishery management assessment."

MOVED HB 341 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 15(FIN) am

"An Act relating to fair trade practices and consumer protection, to telephone solicitations, to charitable solicitations; and providing for an effective date."

HEARD AND HELD

HOUSE BILL NO. 356

"An Act relating to operation of alcoholic beverage delivery sites; and providing for an effective date."

MOVED HB 356 OUT OF COMMITTEE

SENATE BILL NO. 341

"An Act relating to the administration of the Alaska Vocational Technical Center; and providing for an effective date."

MOVED SB 341 OUT OF COMMITTEE

2D CS FOR HOUSE BILL NO. 288(RLS)

"An Act changing the name of the Department of Community and Economic Development to the Department of Commerce, Community, and Economic Development."

MOVED SCS 2D CSHB 288(STA) OUT OF COMMITTEE

SENATE BILL NO. 272

"An Act relating to certain monetary advances in which the deposit or other negotiation of certain instruments to pay the advances is delayed until a later date; and providing for an effective date."

HEARD AND HELD

#### **PREVIOUS COMMITTEE ACTION**

BILL: SB 27

SHORT TITLE: TRACKING OF PESTICIDE USE

SPONSOR(S): SENATOR(S) ELLIS

01/21/03	(S)	PREFILE RELEASED 1/17/03
01/21/03	(S)	READ THE FIRST TIME - REFERRALS
01/21/03	(S)	L&C, RES, FIN
02/26/04	(S)	L&C AT 1:30 PM BELTZ 211
02/26/04	(S)	Heard & Held
02/26/04	(S)	MINUTE(L&C)
04/01/04	(S)	L&C AT 1:30 PM BELTZ 211
04/01/04	(S)	Heard & Held
04/01/04	(S)	MINUTE(L&C)
04/06/04	(S)	L&C AT 2:00 PM BELTZ 211

BILL: HB 341

SHORT TITLE: DIVE FISHERY MANAGEMENT ASSESSMENT

SPONSOR(S): REPRESENTATIVE(S) WILLIAMS

01/12/04	(H)	PREFILE RELEASED 1/2/04
01/12/04	(H)	READ THE FIRST TIME - REFERRALS
01/12/04	(H)	FSH, RES
02/04/04	(H)	FSH RPT 6DP 1NR
02/04/04	(H)	DP: GARA, OGG, HEINZE, WILSON,
02/04/04	(H)	SAMUELS, SEATON; NR: GUTTENBERG

02/04/04 (H) FSH AT 8:30 AM CAPITOL 124  
 02/04/04 (H) Moved Out of Committee  
 02/04/04 (H) MINUTE(FSH)  
 02/16/04 (H) RES AT 1:00 PM CAPITOL 124  
 02/16/04 (H) Scheduled But Not Heard  
 02/25/04 (H) RES AT 1:00 PM CAPITOL 124  
 02/25/04 (H) Moved Out of Committee  
 02/25/04 (H) MINUTE(RES)  
 02/26/04 (H) RES RPT 8DP 1DNP  
 02/26/04 (H) DP: HEINZE, STEPOVICH, GATTO, LYNN,  
 02/26/04 (H) WOLF, KERTTULA, MASEK, DAHLSTROM;  
 02/26/04 (H) DNP: GUTTENBERG  
 03/15/04 (H) TRANSMITTED TO (S)  
 03/15/04 (H) VERSION: HB 341  
 03/17/04 (S) READ THE FIRST TIME - REFERRALS  
 03/17/04 (S) L&C, FIN  
 04/01/04 (S) L&C AT 1:30 PM BELTZ 211  
 04/01/04 (S) Heard & Held  
 04/01/04 (S) MINUTE(L&C)  
 04/06/04 (S) L&C AT 2:00 PM BELTZ 211

BILL: HB 15

SHORT TITLE: SOLICITATIONS/CONSUMER PROTECTION

SPONSOR(S): REPRESENTATIVE(S) FATE

01/21/03 (H) PREFILE RELEASED (1/10/03)  
 01/21/03 (H) READ THE FIRST TIME - REFERRALS  
 01/21/03 (H) L&C, STA, FIN  
 01/29/03 (H) L&C AT 3:15 PM CAPITOL 17  
 01/29/03 (H) <Bill Postponed>  
 02/07/03 (H) L&C AT 3:15 PM CAPITOL 17  
 02/07/03 (H) Moved CSHB 15(L&C) Out of Committee  
 02/07/03 (H) MINUTE(L&C)  
 02/10/03 (H) L&C RPT CS(L&C) NT 3DP 4AM  
 02/10/03 (H) DP: CRAWFORD, ROKEBERG, ANDERSON;  
 02/10/03 (H) AM: LYNN, GATTO, GUTTENBERG, DAHLSTROM  
 02/18/03 (H) STA AT 8:00 AM CAPITOL 102  
 02/18/03 (H) Heard & Held  
 02/18/03 (H) MINUTE(STA)  
 02/25/03 (H) STA AT 8:00 AM CAPITOL 102  
 02/25/03 (H) Scheduled But Not Heard  
 03/11/03 (H) STA AT 8:00 AM CAPITOL 102  
 03/11/03 (H) Heard & Held  
 03/11/03 (H) MINUTE(STA)  
 03/13/03 (H) STA AT 8:00 AM CAPITOL 102  
 03/13/03 (H) Moved CSHB 15(STA) Out of Committee  
 03/13/03 (H) MINUTE(STA)

03/26/03 (H) STA RPT CS(STA) NT 3DP 4NR  
 03/26/03 (H) DP: SEATON, GRUENBERG, WEYHRAUCH;  
 03/26/03 (H) NR: HOLM, LYNN, DAHLSTROM, BERKOWITZ  
 02/19/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 02/19/04 (H) Heard & Held  
 02/19/04 (H) MINUTE(FIN)  
 02/23/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 02/23/04 (H) Moved CSHB 15(FIN) Out of Committee  
 02/23/04 (H) MINUTE(FIN)  
 02/24/04 (H) FIN RPT CS(FIN) NT 7DP 3NR  
 02/24/04 (H) DP: HAWKER, CROFT, CHENAULT, FATE,  
 02/24/04 (H) MEYER, HARRIS, WILLIAMS; NR: STOLTZE,  
 02/24/04 (H) JOULE, MOSES  
 03/03/04 (H) TRANSMITTED TO (S)  
 03/03/04 (H) VERSION: CSHB 15(FIN) AM  
 03/04/04 (S) READ THE FIRST TIME - REFERRALS  
 03/04/04 (S) L&C, JUD  
 03/25/04 (S) L&C AT 1:30 PM BELTZ 211  
 03/25/04 (S) Heard & Held  
 03/25/04 (S) MINUTE(L&C)  
 04/06/04 (S) L&C AT 2:00 PM BELTZ 211

BILL: HB 356

SHORT TITLE: EXTEND ALCOHOL DELIVERY SITE SUNSET  
 SPONSOR(S): REPRESENTATIVE(S) JOULE

01/12/04 (H) PREFILE RELEASED 1/2/04  
 01/12/04 (H) READ THE FIRST TIME - REFERRALS  
 01/12/04 (H) L&C  
 02/09/04 (H) L&C AT 3:15 PM CAPITOL 17  
 02/09/04 (H) Moved Out of Committee  
 02/09/04 (H) MINUTE(L&C)  
 02/12/04 (H) L&C RPT 4DP  
 02/12/04 (H) DP: LYNN, GATTO, DAHLSTROM, ANDERSON  
 02/19/04 (H) TRANSMITTED TO (S)  
 02/19/04 (H) VERSION: HB 356  
 02/20/04 (S) READ THE FIRST TIME - REFERRALS  
 02/20/04 (S) L&C  
 03/02/04 (S) L&C AT 1:30 PM BELTZ 211  
 03/02/04 (S) Heard & Held  
 03/02/04 (S) MINUTE(L&C)  
 04/06/04 (S) L&C AT 2:00 PM BELTZ 211

BILL: SB 341

SHORT TITLE: AVTEC ADMINISTRATION  
 SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/16/04 (S) READ THE FIRST TIME - REFERRALS  
02/16/04 (S) L&C, FIN  
04/06/04 (S) L&C AT 2:00 PM BELTZ 211

BILL: HB 288

SHORT TITLE: CHANGING NAME OF DEPT OF COMM & ECON DEV.

SPONSOR(S): REPRESENTATIVE(S) KOHRING

04/28/03 (H) READ THE FIRST TIME - REFERRALS  
04/28/03 (H) STA, L&C  
05/06/03 (H) STA AT 8:00 AM CAPITOL 102  
05/06/03 (H) Moved CSHB 288(STA) Out of Committee  
05/06/03 (H) MINUTE(STA)  
05/08/03 (H) STA RPT CS(STA) NT 3DP 1DNP 3NR  
05/08/03 (H) DP: DAHLSTROM, LYNN, HOLM;  
05/08/03 (H) DNP: BERKOWITZ; NR: SEATON, GRUENBERG,  
05/08/03 (H) WEYHRAUCH  
05/08/03 (H) CRA REFERRAL ADDED AFTER L&C  
05/09/03 (H) L&C AT 3:15 PM CAPITOL 17  
05/09/03 (H) Moved CSHB 288(STA) Out of Committee  
05/09/03 (H) MINUTE(L&C)  
05/10/03 (H) L&C RPT CS(STA) NT 3DP 1NR 2AM  
05/10/03 (H) DP: GATTO, DAHLSTROM, LYNN;  
05/10/03 (H) NR: ROKEBERG; AM: CRAWFORD, GUTTENBERG  
05/13/03 (H) CRA RPT CS(STA) NT 2DP 3NR  
05/13/03 (H) DP: WOLF, KOTT; NR: SAMUELS, CISSNA,  
05/13/03 (H) MORGAN  
05/13/03 (H) CRA AT 8:00 AM CAPITOL 124  
05/13/03 (H) Moved CSHB 288(STA) Out of Committee  
05/13/03 (H) MINUTE(CRA)  
05/16/03 (H) RETURNED TO RLS COMMITTEE  
05/19/03 (S) L&C AT 8:00 AM BELTZ 211  
05/19/03 (S) <Above Item Removed from Agenda>  
05/19/03 (S) MINUTE(L&C)  
01/20/04 (H) RLS AT 9:30 AM BELTZ 211  
01/20/04 (H) Moved CSHB 288(RLS) Out of Committee  
01/20/04 (H) MINUTE(RLS)  
01/21/04 (H) RLS RPT 2D CS(RLS) NT 2DP 1DNP 2NR  
01/21/04 (H) DP: COGHILL, ROKEBERG; DNP: KERTTULA;  
01/21/04 (H) NR: MCGUIRE, KOTT  
01/21/04 (H) TRANSMITTED TO (S)  
01/21/04 (H) VERSION: 2D CSHB 288(RLS)  
01/23/04 (S) READ THE FIRST TIME - REFERRALS  
01/23/04 (S) STA, L&C  
02/03/04 (S) STA AT 3:30 PM BELTZ 211  
02/03/04 (S) Moved SCS CSHB 288(STA) Out of  
Committee

02/03/04 (S) MINUTE(STA)  
02/04/04 (S) STA RPT SCS 2DP 1NR NEW TITLE  
02/04/04 (S) DP: STEVENS G, STEDMAN; NR: GUESS  
04/06/04 (S) L&C AT 2:00 PM BELTZ 211

BILL: SB 272

SHORT TITLE: DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)  
SPONSOR(S): RULES

01/21/04 (S) READ THE FIRST TIME - REFERRALS  
01/21/04 (S) L&C, FIN  
04/06/04 (S) L&C AT 2:00 PM BELTZ 211

**WITNESS REGISTER**

Ms. Kristin Ryan, Director  
Division of Environmental Health  
Department of Environmental Conservation  
410 Willoughby  
Juneau, AK 99801-1795  
**POSITION STATEMENT:** Supports SB 27.

Mr. Everett Walton  
American Pest Management  
Anchorage AK  
**POSITION STATEMENT:** Opposes SB 27.

Mr. Tim Barry  
Staff to Representative Bill Williams  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Commented on HB 341 for sponsor.

Ms. Julie Decker, Executive Director  
Southeast Alaska Regional Dive Fisheries Association (SARDFA)  
PO Box 2138  
Wrangell AK 99929  
**POSITION STATEMENT:** Supports HB 341.

Mr. Jim Pound  
Staff to Representative Hugh Fate  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Commented on HB 15 for the sponsor.

Mr. Robert Flint  
Hartig Rhodes Hoge & Lekisch

717 K St.  
Anchorage AK  
**POSITION STATEMENT:** Opposes HB 15.

Mr. Dan Smith  
Direct Marketing Association  
No address provided  
**POSITION STATEMENT:** Commented on HB 15.

Ms. Ann Darr  
Magazine Publishers of America  
No address provided  
**POSITION STATEMENT:** Commented on HB 15.

Mr. Guy Bell, Director  
Administrative Services  
Department of Labor & Workforce  
Development  
PO Box 21149  
Juneau, AK 99802-1149  
**POSITION STATEMENT:** Supports SB 341.

Mr. Ben Grenn  
Staff to Representative Vic Kohring  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Commented on HB 288 for sponsor.

Representative Vic Kohring  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of HB 288.

Ms. Sally Sadler, Legislative Liaison  
Department of Community & Economic Development  
PO Box 110800  
Juneau, AK 99811-0800  
**POSITION STATEMENT:** Supports HB 288.

Mr. Richard Schmitz  
Staff to Senator John Cowdery  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Commented on SB 272 for sponsor.

Ms. Marie Darlin, Coordinator  
Capital City Task Force

AARP Alaska  
Juneau AK 99801

**POSITION STATEMENT:** Opposes SB 272.

Mr. Mark Davis, Director  
Division of Banking, Securities and Corporations  
Department of Community & Economic Development  
PO Box 110800  
Juneau, AK 99811-0800

**POSITION STATEMENT:** Supports SB 272.

Mr. Ed Sniffen, Assistant Attorney General  
Department of Law  
PO Box 110300  
Juneau, AK 99811-0300

**POSITION STATEMENT:** Supports SB 272.

Ms. Angela Liston  
Alaska Catholic Conference  
Anchorage AK

**POSITION STATEMENT:** Supports SB 272.

Ms. Joelle Hall  
Eagle River AK

**POSITION STATEMENT:** Supports SB 272.

#### **ACTION NARRATIVE**

**TAPE 04-31, SIDE A**

^#SB27

#### **SB 27-TRACKING OF PESTICIDE USE**

**CHAIR CON BUNDE** called the Senate Labor and Commerce Standing Committee meeting to order at 2:04 p.m. Present were Senators Gary Stevens, Ralph Seekins, Hollis French, and Chair Con Bunde. Senator Bettye Davis arrived at 2:10 p.m. The first order of business to come before the committee was SB 27.

**SENATOR RALPH SEEKINS** moved to adopt CSSB 27(L&C), version /H, for the working document. There were no objections and it was so ordered.

**CHAIR BUNDE** explained that the new version removes the public notice warning requirement for about 1,200 retailers; it also amends section 5 regarding farmers.

MS. KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), agreed with the chair's short summary of the changes in SB 27. She clarified the second change saying that the department considers all certified applicators commercial; language was changed to explicitly refer only to commercial applicators. About 200 farmers are certified.

SENATOR SEEKINS asked her to define "private applicators" on page 1, line 4.

MS. RYAN replied that the term is used to reflect the use of restricted use pesticides, which one must become certified to use. She noted that the fiscal note would remain the same.

SENATOR BETTYE DAVIS arrived at 2:10 p.m.

MR. EVERETT WALTON, American Pest Management, said there are less than 50 commercial applicators in the whole state. In Anchorage, only about 15 people work in the business on a regular basis.

There isn't a legitimate reason to pass this bill out of committee. This bill will add several hundred thousand dollars to the state budget with no guarantee that the money can be recovered by implementing registration fees. It would not surprise me if fully half of the chemicals were not reregistered. After all, we only have 600,000 people in the State of Alaska.... This bill is all about growing government for the sake of growth... so that it can demand a larger budget.... All the commercial applicators in this state use only about 5 percent of the chemicals on this list. The rest are privately applied, thus untrackable.

He accused that the bill would be unenforceable and wouldn't be able to accomplish its stated purposes.

CHAIR BUNDE observed that he had a substantial amount of input from citizens requesting that this bill be heard. It's not just a matter of government wanting to expand.

MR. KEN PERRY, Owner and General Manager, Paratex Pied Piper Pest Control of Alaska, said he represented the significant number of commercial applicators doing business in Alaska and the National Pest Management Association, the industry trade

group. He is also in contact with the chemical manufacturers trade group called RISE.

He accused that supporters of this bill had not consulted with industry or trade groups and he sought to provide information that is being withheld. He stated that the \$80 registration fee is a smoke screen for saying this bill has no cost. He also warned:

I have been informed that all the manufacturers with current registrations in Alaska decided to review their lists and determine which chemicals they will continue to register. The decision is to be based on cost of registration versus potential income and the desirability of paying the State of Alaska to implement anti-pesticide legislation against their own interests....

He closed requesting a no pass on this bill.

CHAIR BUNDE reiterated that his office had a great number of voters asking him to hear the bill. "It's called democracy."

SENATOR SEEKINS asked Ms. Ryan why a household survey is being created and it appeared to him that there is some intent to regulate household pesticides down the road.

MS. RYAN replied that her department has said the most common misuse of pesticides is by private homeowners and the intent of the survey is to understand how homeowners use pesticides so that future outreach can be appropriately targeted. For example, if it finds that Alaskans are frequently using Diazanone for treating aphids, it could create outreach materials to promote less harmful alternatives.

CHAIR BUNDE said some people want to see all pesticides go away, but those who have been exposed to malaria would disagree with that. He asked for her reasoning in that section.

MS. RYAN explained that her division is interested in pesticide use statewide and, if it were practical, wanted to include the household reporting component. However, at this point that oversteps her intention. This bill is a good first step to look into commercial applications, a lot of which take place in public buildings. Some of that information could be found already by looking through public records. A statewide household survey would be statistically valid and provide beneficial

information to the department, which could then determine if it needed to do more outreach.

SENATOR SEEKINS said her comment that registration is the first step concerns him, because he doesn't see the next step and someone else does. He asked if she thought anything accomplished in this bill would reduce pesticide use in the State of Alaska.

MS. GAREN TARR, staff to Senator Ellis, sponsor, stepped in and said this is not an attempt to reduce pesticide use, but more of an attempt to know where they are being used so that appropriate decisions can be made about public and environmental health. That would include helping people who are susceptible to exposure, such as people with asthma or a compromised immune system.

SENATOR SEEKINS summarized that it won't reduce the use of pesticides, but may change the way they are applied or which ones are applied. He reflected that he had never seen a definition of a pesticide and asked, "Are we regulating DEET? Are we regulating anti-snail applications? What are we regulating?"

MS. RYAN replied that the federal government already requires registration of pesticides; an \$80 fee is being added to help pay for the program. The Department of Environmental Conservation (DEC)'s website has a definition of what products are regulated. Currently, there are about 5,700 regulated products.

SENATOR SEEKINS asked since the state has primacy, does our list include pesticides that are not included on the federal list.

MS. RYAN replied that the department would not be able to register any pesticide products for sale that weren't approved by the federal government.

SENATOR SEEKINS asked if our state regulations exceeded federal regulations for what is registered as a pesticide.

MS. RYAN replied that about five pesticides are registered federally that are not registered for use in the state per year.

SENATOR FRENCH moved to pass CSSB 27(L&C) from committee with attached fiscal note and individual recommendations. Senators Gary Stevens, Bettye Davis, Hollis French and Chair Con Bunde

voted yea; Senator Ralph Seekins voted nay; and CSSB 27(L&C) moved from committee.

#

^#HB341

**HB 341-DIVE FISHERY MANAGEMENT ASSESSMENT**

CHAIR CON BUNDE announced HB 341 to be up for consideration.

MR. TIM BARRY, staff to Representative Bill Williams, sponsor, offered to answer questions.

SENATOR HOLLIS FRENCH asked if the administration supported this bill.

MR. BARRY answered that the administration hadn't commented on the bill one way or the other. It has a zero fiscal note and the Department of Revenue will administer collection of the fees, which it already does. The assessments will change.

SENATOR FRENCH asked if the department still believed that changing the assessments would result in a zero fiscal note.

MR. BARRY replied that currently the Dive Fish Association assesses itself at one of four rates - 1%, 3%, 5% and 7%. This bill allows the association to assess themselves at 2%, 4% and 6%. To that extent, the department isn't doing anything different.

MS. JULIE DECKER, Executive Director, Southeast Alaska Regional Dive Fisheries Association (SARDFA), said the association has developed good relationships with the departments it worked with along with Alan Austerman. The concept behind SARDFA has had nothing but support.

SENATOR RALPH SEEKINS moved to pass HB 341 from committee with attached fiscal note and individual recommendations. Senators Gary Stevens, Bettye Davis, Ralph Seekins, Hollis French and Chair Con Bunde voted yea; and HB 341 was moved to its next committee of referral.

#

^#HB15

**CSHB 15(FIN)am-SOLICITATIONS/CONSUMER PROTECTION**

CHAIR CON BUNDE announced HB 15 to be up for consideration. He noted that Mr. Robert Flint expressed concerns from magazine publishers.

MR. JIM POUND, staff to Representative Hugh Fate, sponsor, responded that the Department of Law said a lot of the complaints it receives come from those types of businesses. Mr. Flint admitted there are about 2,300 of them in the country.

MR. ROBERT FLINT, Hartig Rhodes Hoge & Lekisch, said he represents the Direct Marketing Association and the Magazine Publishers of America on the portion of HB 15, which relates to the proposed amendments to the Telemarketing Act. He listed his points as follows:

As I mentioned before, this statute, which is common to about two dozen states, was aimed at fly-by-night operators and, therefore, was deliberately made very burdensome. As an example, the application for registration is 20 questions long and you have to list all your sales people. The regulations also require if the sales people change within 90 days - either they leave or you add on sales people - you're going to have to file the new sales people, which includes listing their home address.

Moreover, every mistake you make is a class C felony, which is a \$50,000 fine; for your first offense - one year in jail all the way up to five years.

To put the magazine publishers and book people under this is a radical change from the original purpose and the scope. Right now there are eight companies registered under the Alaska Telemarketing Act. This business is a huge national business. The 2,300 magazine and newsletters are that only - I don't know the number of CDs, videos and booksellers.

The fiscal note here estimates that maybe 30 instead of eight will register under the Telemarketing Act if these amendments are passed. If anybody wants to do business in Alaska among those 2,300 people for magazines alone, it will be far higher than that. If those don't register, then the enforcement problem is going to be a mess. At a minimum, you're going to have a constant stream of paperwork and bear in mind that this business, which has millions of transactions a

day nationwide, these callers are from all over the country and, indeed, outside the country. So, you're going to get the list of people from Bangladesh and India and South Dakota filling up the cabinets of the Department of Law on a constant daily basis.

I think one of the elements here, if you go forward, the committee is entitled to a fiscal note, which addresses the reality. The administrative and enforcement costs of this - trying to regulate a very large national industry are going to be very high.

Now, the regulations in the statute are still going to interfere with the business. One of the things that the regulations do not cover is mail to an individual. So, if you get a card or an ad from Time Magazine in your mailbox and inviting you to subscribe to this publication, and it says you can either do so by returning this card or you can call an 800 number and order it over the phone. Under this bill, you would have to do mail only; you cannot call over the phone....

It also excludes existing customers. That is, if a company has an existing customer they have done business with, they would also run into this act. We have all agreed... that cold-call marketing - the guy who calls you at your dinner table, is absolutely dead. We have a vast number of people who signed up for the Do Not Call list. According to all reports we get from the Federal Trade Commission, it is working. So, I think that problem is solved in another direction, which my clients have no objection to at all. We have had no evidence of need presented to us.

As I mentioned before, I filed a Freedom of Information Act request with the Attorney General's Office. You know, we hear anecdotes about problems in an area, but we cannot get the statistics. It's over three weeks and I've had no response to that Freedom of Information request at all. There are, however, national statistics....

The proposed regulators have never discussed in any detail or any generality how this is supposed to work with this industry, which I think, is sort of a base-

line before you want to go and create this administrative cost....

So, I would summarize, the amendments don't work. They're unworkable from the industry standpoint, from an administrative standpoint and from an enforcement standpoint. They are consumer prevention, not consumer protection.... I do believe my principal, Ann Darr, is on the phone, who has been involved with this for 30 years... I believe she may have some valuable information for the committee if she may be permitted to make some comments.

MR. DAN SMITH said he works with the Direct Marketing Association and that Ann Darr is on at the same time if that is acceptable to the chair who indicated it was.

MS. ANN DARR, Magazine Publishers of America, said that telephone fraud in the 80s was a terrible problem that extended into the 90s. Industry, the Federal Trade Commission, the FBI and the State Attorneys General all banded together to do what they could about it. Telephone registration helped and was most effective in the southern states - Florida, Arizona, Orange County, California and Las Vegas.

Every state that enacted a telephone registration law exempted identifiable substantial sellers that the Attorney General knew how to locate should they have a problem with their marketing. No other state includes magazine or books or recordings in their telephone registration requirements.

We think that telephone fraud has largely been taken care of. The Federal Trade Commission does not list it as one of its chief complaints. The Consumer Federation of American - its last list of consumer complaints did not, even in their 12 complaints, did not include telephone marketing or magazines. I think the Federal Trade Commission list included magazine complaints as one percent. When you consider the millions of transactions we do every year, there are, of course, going to be complaints. The question is, are they unfair, misleading and deceptive practices. Even if it were an unfair, misleading and deceptive practice, to require every publisher in the country to go through this very extensive registration process when you think of putting down the information for

each officer, director, trustee, general partner, etc. etc. of a company such as Time Warner, a listing of all telephone numbers used to call consumers when they have a nationwide operation, this would be extremely burdensome. We don't think it would be helpful to have companies have to go through this process. It is true that if they receive a mail solicitation, and this is the common way that we solicit people, and invite them to call a telephone number to subscribe, then we would be required to register. This would be extremely burdensome. Many companies couldn't afford to do it - especially the smaller publications.

The general intent of HB 15 was to make Alaska consistent with the Federal Trade Commission Do Not Call list. The DMA certainly has its members adhere to that; 52.8 million American consumers have signed up for the list. The FTC says it's working and there were a couple of industry groups, which included the DMA, who were challenging the law in court; the DMA has withdrawn its challenge....

So, we have no trouble with HB 15 as introduced. It's what was amended into the bill to delete the exemption from registration. Twenty-four states have telephone registration laws similar to Alaska and none of them require registration of magazine sellers or book or recording companies. One state, Arizona, requires companies to do a one-page on-line simple registration statement.

CHAIR BUNDE noted that Ms. Darr had raised some interesting questions and asked the sponsor to work with her, Mr. Flint and Ms. Drinkwater to resolve them.

#

^#HB356

**HB 356-EXTEND ALCOHOL DELIVERY SITE SUNSET**

CHAIR CON BUNDE announced HB 356 to be up for consideration. He indicated that there was no new testimony.

SENATOR HOLLIS FRENCH moved to pass HB 356 from committee with attached fiscal note and individual recommendations. Senators Ralph Seekins, Hollis French, Gary Stevens, Bettye Davis and Chair Con Bunde voted yea; and HB 356 passed to its next committee of referral.

#

^#SB341

**SB 341-AVTEC ADMINISTRATION**

CHAIR CON BUNDE announced SB 341 to be up for consideration.

MR. GUY BELL, Director, Administrative Services, Department of Labor and Workforce Development (DOLWD), explained that during the 2002 session, the Legislature enacted SB 192, which transferred the Alaska Vocational Technical School (AVTEC) from the Department of Education to the DOLWD.

**TAPE 04-31, SIDE B**

MR. BELL continued saying that a fee review indicated that the transfer did not include the tuition and fee-setting authority. This bill corrects that oversight by giving the commissioner of DOLWD the authority to set tuition and fees by regulation, which includes a public review process, rather than administratively as is done now and doesn't have public review. It does not change the fees or the process in which they are established.

SENATOR FRENCH asked if his department had been administering AVTEC unlawfully over the past year.

MR. BELL said he wasn't a lawyer and didn't know.

SENATOR GARY STEVENS asked if AVTEC supported the bill.

MR. BELL replied yes.

SENATOR FRENCH clarified that this is purely cleanup.

MR. BELL replied yes.

SENATOR STEVENS moved to pass SB 341 from committee with attached zero fiscal note and individual recommendations. Senators Bettye Davis, Gary Stevens, Ralph Seekins, Hollis French and Chair Con Bunde voted yea; and SB 341 passed from committee.

#

^#HB288

**2D CSHB 288(RLS)-CHANGING NAME OF DEPT OF COMM & ECON DEV.**

CHAIR CON BUNDE announced HB 288 to be up for consideration.

MR. BEN GRENN, staff to Representative Kohring, sponsor, explained that HB 288 changes the name of the Department of Community & Economic Development (DCED) to the Department of Commerce, Community and Economic Development. Confusion existed as to the actual mission of the department on whether Alaska had an agency that is tasked with promoting commerce and economic development, which has somewhat complicated efforts to attract investment to the state. Adding the word commerce back into the title also makes it consistent with numerous other states.

CHAIR BUNDE asked if community or commerce has any connection with coalbed methane.

MR. GRENN replied no at this point in time.

REPRESENTATIVE VIC KOHRING, sponsor, joined the committee, and exhorted the committee to pass it.

MS. SALLY SADLER, Legislative Liaison, Department of Community & Economic Development (DCED), supported HB 288.

We believe the new name does encompass those three core missions and functions that the department embraces - first being the commerce, regulating business through our banking securities corporations, through our Division of Insurance, as well as Occupational and Business Licensing. We believe that it also captures the work of our Division of Community Advocacy, which is one of our largest divisions that reaches out and helps communities achieve that self-sufficiency and govern themselves and last, that certainly not least, those functions of economic development in which we have our business development specialists who promote economic development opportunities not only for fishing and tourism, but also for small business and mining....

A zero fiscal note accompanies the legislation and the costs will be absorbed as part of the department's on-going functions.

SENATOR RALPH SEEKINS moved to pass SCS 2D CSHB 288(STA) from committee with individual recommendations and attached zero fiscal note. Senators Bettye Davis, Ralph Seekins, Gary Stevens, Hollis French, and Chair Con Bunde voted yea; and SCS 2D CSHB 288(STA) moved from committee.

#

^#SB272

**SB 272-DEFERRED DEPOSIT ADVANCES (PAYDAY LOANS)**

CHAIR CON BUNDE announced SB 272 to be up for consideration.

SENATOR RALPH SEEKINS moved to adopt CSSB 272(L&C), version /D, as the working document. There were no objections and it was so ordered.

MR. RICHARD SCHMITZ, staff to Senator John Cowdery, said the CS puts the bill in alignment with the House version.

MS. MARIE DARLIN, Coordinator, Capital City Task Force, AARP Alaska, noted its letter in the committee packet that lays out their concerns. She explained that the task force has worked in partnership with The Consumer Federation of America, the Consumer's Union, and the National Consumer Law Center over several years and has developed a model bill, which was sent to the committee.

That is more of what we would like to see in the bill. Among our recommendations are that we [indisc.] no less than two weeks for each \$50 owed on the loan. And a consumer shall be permitted to make partial payments in amounts equal to no less than \$5 increments on the loan at any time without charge. The maximum amount of the deferred deposit loan shall not exceed \$300. I realize right now they have a limit of \$500 and the bill wants to increase it to \$1,000, which we definitely object to. We are sure the committee is concerned with consumer protection, as we are and that is our main concern.... If the term of the loan is no less than two weeks per \$50, consumers will have a better chance of paying off the loan rather than defaulting and possibly taking court action or having to renew the loan again at exorbitant rates. We understand that the new version of the bill retains the maximum amount of \$500 rather than increasing available loan to \$1,000, but we believe Alaska should reduce the available amount from \$500 to \$300. These are monies paid out of someone's pocket. So it is interest. If you and I do not pay off our credit cards, we pay interest. If I take out a payday loan and pay an exorbitant fee, much higher than interest on a credit card, it's still money and a significant amount of money and out of my pocket.

When credit card companies can make a handsome profit on interest rates of 18% to 23%, why cannot a payday loan outfit make a profit with an interest rate or fee that does not go beyond 36%? Our model law also allows for an administrative fee of no more than \$5 per loan, no matter how much the loan is for. Some states have determined that payday lenders should not be allowed to exist in their state. AARP does not argue that they should be banned; we only argue that the interest rate should be no more than 36% APR. The available loan amount should not be more than \$300 and the borrower should be allowed to make partial repayment. If the consumer has more than \$300 in outstanding payday loans from one or more lenders, they should be prohibited from taking out any additional loans from any payday lending organization. This is consumer interest to us, but we believe this is in everybody's best interest.

MR. MARK DAVIS, Director, Banking and Securities and Corporations, Department of Community & Economic Development (DCED), said he is ready to take over regulation of this industry that is currently unregulated. Forty-four states do regulate it. "We're basically in favor of regulation in terms of making sure that some rules are followed."

MR. DAVIS said there is a fiscal note for one more banking examiner. He supported a \$500 limit; any greater amount would make it incompatible with the current Small Loan Act.

CHAIR BUNDE asked how he could make this issue revenue neutral.

MR. DAVIS replied that industry has told him that there are 10 companies doing business in the state; he found 30 locations between Anchorage and Fairbanks that would have to be checked. Basically, another examiner would be needed to do that. He added that the current four examiners work now to stay on schedule with the state charter banks and credit union.

CHAIR BUNDE clarified that he wasn't suggesting doing without another staff person, but was looking for revenues with which to pay him.

MR. DAVIS answered that he has asked for a registration fee and an hourly rate for the examiners. "We would at least break even."

CHAIR BUNDE asked if he would break even under the existing CS.

MR. DAVIS replied that he wanted to charge \$75 per examiner hour on location to make the bill revenue neutral.

SENATOR FRENCH said the charge on the loan would be expressed as a specific value - \$15 per \$100.

MR. DAVIS said he was only trying to make consumers aware of how much it cost them to borrow money.

MR. ED SNIFFEN, Assistant Attorney General, Department of Law (DOL), said he and Cindy Drinkwater, DOL, worked with the Mr. Davis and the payday lenders to craft the CS. A section in the bill already requires that APRs be disclosed to consumers in the form of a placard in a payday lenders shop that identifies the cost per \$100. It is also expressed in the form of an annual percentage rate, which is required under the Truth in Lending Act. Another provision says that other federal requirements impose other disclosure obligations on a payday lender, as well.

Payday lenders are not currently regulated and this bill goes a long way to removing the problems with these kinds of transactions. He agreed with Mr. Davis that reducing the loan amount to \$300 from \$500 would be more trouble than it's worth to be consistent with the Small Loan Act. He noted that the bill has a limit of \$15 and a \$5 origination fee or 15 percent of the amount loaned. "We put a 15 percent limit in there so if someone wanted to borrow \$150, they wouldn't get charged for the \$200 cash advance fee. It would be something in between - maybe \$22.50."

MR. SNIFFEN warned that this is still a fairly significant interest rate. Some states allow more, some less; this bill is in the middle of what is allowed in other states.

It's been our experience that what gets consumers in trouble with these kinds of transactions is not the interest rate. It's not the \$15 per \$100 that creates the problem. The problem comes in poor financial management from the get-go, which brings consumers to these types of lenders in the first place. So, I don't know that undue emphasis needs to be directed toward the interest rate as a percentage or even as a raw dollar figure.... The problem, of course, is a lot deeper than that....

He did not object to allowing partial payments and language could be inserted to that effect, but he wanted to hear from the payday lenders on whether or not that would be problematic.

CHAIR BUNDE said he was running out of time today and asked him to work with the bill's sponsor to address that question, along with the issue of trying to make this revenue neutral.

MS. ANGELA LISTON, Alaska Catholic Conference, supported regulating the payday loan industry.

The Catholic Church, of course, has had a long history of opposing exorbitant interest rates and we're concerned that this type of lending, which was once considered a social problem, is really skyrocketing, not just here in Alaska, but nationally. The people who use these loans are the working poor. If someone was not desperate, they wouldn't pay \$15 to borrowers \$100 for two weeks. These borrowers are people that don't have other options. In most states, payday lenders make their money on the renewals or what is commonly called rollovers. In California, borrowers average 11 loans a year. In Illinois, they average 13 loans a year.

This trend doesn't suggest a consumer service, but it does suggest that the industry moves people into increasing chronic and hopeless debt and every two weeks they're incurring another \$15 fee for that same \$100 loan. Happily, in Alaska, we learned from an industry representative at a hearing in the House that that's not the trend here. In fact, out of 26,000 loans, one industry rep says that there's 24,000 customers, which is an average closer to one loan per person. If that's the case, to make this, a bad situation, better, we would like to propose that we extend the term of the loan. Right now, it's a two weeks term and we would propose that it become a 30-day term, giving people one extra option for another paycheck to get that loan paid off and we also absolutely support the idea of partial payment.... For the industry it would result in fewer defaults and it would have no impact on the industry since, in fact, they have 24,000 people who are getting these loans. If the industry is making its money off the rollovers, then we do have problems, again, because we have to

admit that these constant rollovers and these fees exploit the working poor.

MS. JOELLE HALL, Eagle River resident, said she is a military wife and served in the Army from 1983 - 1989; her husband has many years of military service, as well. She wanted to relate the military applications of this bill. "These payday lenders tend to ring around military installations and from my years moving around, I know this to be the case." Her husband is a Sergeant-Major at Fort Richardson and she thought at first to make these places off limits if they were operating without the CS.

I feel it's very important to regulate these organizations. If we can't make this kind of lending illegal, then we have to regulate it as best as we can. My hope is that we can make this bill work better for the military clients who I know consume an inordinate number of these payday loans.

The 30-day limit that was mentioned earlier would be a great benefit. Soldiers and airmen have the option of getting paid every 15 days, but some of them only get paid every 30 days. So, extending it to a 30-day limit would greatly allow those soldiers and airmen to make their payments on time. In addition, the partial payment question seems to be one of just decency. You should be able to pay a part of your principle any time you take out a loan. It's the way we do business in America with virtually every other kind of lending.

I read in the minutes that industry believes they are providing a service to poor people by providing these loans and I would just urge this committee to remember that some of the people who are procuring these loans are actually performing a real service for their country and we should be thinking about them. If the industry is really interested in providing a service, the least they can do is make these loans a little bit more compatible for their clients who wear a uniform.

CHAIR BUNDE responded that he remembered being a GI who had fellow GIs who wanted to borrow \$10 for a \$20 pay back. If they are limited commercially, their creativity would remain the same.

MS. HALL responded, "I believe legalized and illegal are different things."

CHAIR BUNDE thanked her for her testimony. He wanted the sponsor and industry to address the amendments. There being no further business to come before the committee, he adjourned the meeting at 3:28 p.m.

#