

HOUSE FINANCE COMMITTEE
January 31, 2006
1:38 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:38:47 PM](#).

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Mike Kelly
Representative Beth Kerttula
Representative Carl Moses
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Mike Chenault, Co-Chair
Representative Reggie Joule

ALSO PRESENT

Representative Bob Lynn; Mike Pawlowski, Staff,
Representative Kevin Meyer; Marc Antrim, Commissioner,
Department of Corrections; Anne Carpeneti, Assistant
Attorney General, Legal Services Section-Juneau, Criminal
Division, Department of Law

PRESENT VIA TELECONFERENCE

Duane Bannock, Director, Division of Motor Vehicles,
Department of Administration, Anchorage; Gordon Severson,
Anchorage Municipal Military & Veterans Commission, Chapter
675, Anchorage; Ed Knoebel, Glennallen

SUMMARY

HB 245 An Act relating to registration and license plate fees for Purple Heart recipients, prisoners of war, Congressional Medal of Honor recipients, and spouses of current prisoners of war.

HB 245 was HEARD and HELD in Committee for further consideration.

HB 326 An Act relating to harassment.

CS HB 326 (JUD) was reported out of Committee with a "do pass" recommendation and with three zero notes by the Alaska Court System, the Department of Law and the Department of Public Safety.

#HB245

[1:39:42 PM](#)

HOUSE BILL NO. 245

An Act relating to registration and license plate fees for Purple Heart recipients, prisoners of war, Congressional Medal of Honor recipients, and spouses of current prisoners of war.

REPRESENTATIVE BOB LYNN, SPONSOR, stated that the bill would allow the Division of Motor Vehicles (DMV) to design and issue special registration plates for one noncommercial motor vehicle to a person who has been awarded the Congressional Medal of Honor. He stated that those people have already paid a high price and should receive that honor.

Representative Lynn added that the spouses also serve in a different way. The plate would be for both parties. He urged favorable consideration of the bill.

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DUANE BANNOCK, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, DIVISION OF MOTOR VEHICLES (DMV), DEPARTMENT OF ADMINISTRATION, ANCHORAGE, offered to answer questions regarding the impact of the legislation.

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Vice Chair Stoltze asked if there were any Pearl Harbor survivors still alive. Mr. Bannock thought that there were seven registered survivors in Alaska; that information was taken from 2004 data. In 2004, there were a total of 18 vehicles registered with that classification.

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GORDON SEVERSON, (TESTIFIED VIA TELECONFERENCE), ANCHORAGE MUNICIPAL MILITARY & VETERANS COMMISSION, CHAPTER 675, ANCHORAGE, encouraged passage of the legislation. He noted that he already has a Purple Heart license plate but that the legislation would benefit other Purple Heart recipients within the State. Additionally, the legislation recognizes wounded Iraqi veterans. He suggested that those people would be privileged to be recognized in such a manner. He urged passage of HB 245.

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ED KNOEBEL, (TESTIFIED VIA TELECONFERENCE), GLENNALLEN, encouraged passage of the legislation and offered to help with design of the plates. He indicated that he was a World War II veteran with a Purple Heart. He stated that there are a total of 6,000 Purple Heart members throughout the country with 30 or 40 living in Alaska.

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Co-Chair Meyer asked if there would be a one-time charge of \$5,000 dollar for the new plate. Representative Lynn said that was correct and thought that cost was excessive.

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Mr. Bannock explained that the \$5,000 dollars would include a couple different items. He added that any change made to the current computer system requires many hours of work. The system is very old and every license plate is assigned for every type of classification of automobile. The system is not easily amended and the proposed cost includes redesign charges. Those license plates are designed and ordered on an individual basis, which increases a little, the per plate cost.

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Co-Chair Meyer pointed out that there are no Prisoners of War (POW) or spouses of current POW's at this time in Alaska. He asked if the plate must be designed at this time. Mr. Bannock informed members that currently, there are a POW license plate. What is being proposed is who would be entitled to receive free registration. Those persons would qualify for the free registration if they were a spouse of a current prisoner of war. Representative Lynn acknowledged that was the intent.

Representative Holm inquired if there already exists a metal of honor plate.

[1:55:22 PM](#)

Mr. Bannock replied that there is not one and would need to be designed. That person would not pay for both the plate and/or the vehicle registration.

Representative Holm inquired if there were current metal of honor residents in Alaska. Mr. Bannock did not know.

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Representative Holm asked how much it would cost to design a plate. Mr. Bannock replied that number was variable depending on the rendition. He recommended that a group be

assigned to design the plate, keeping the cost around \$500 dollars for a sample plate.

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AT EASE: [1:57:22 PM](#)

RECONVENE: [1:57:55 PM](#)

[1:57:58 PM](#)

Co-Chair Meyer noted that the bill would be held in Committee in order to research the fiscal costs. Representative Lynn said he would cooperate with the wishes of the Committee.

HB 245 was HELD in Committee for further consideration.

#HB326

[1:58:47 PM](#)

HOUSE BILL NO. 326

An Act relating to harassment.

MICHAEL PAWLOWSKI, STAFF, REPRESENTATIVE KEVIN MEYER, commented that HB 326 includes the publishing, posting or distribution of material described as lewd and/or obscene in the definition of harassment. He noted that the issue arose from a constituent whose photos were taken from a consensual situation and then as the relationship ended, those pictures were used to harass that person.

It is obvious that the Alaska Statutes are not keeping up with technology. With the availability of small digital cameras & phones has changed the way that photos can be taken and used to harass individuals. He reiterated that HB 326 changes current statute to include the publishing or posting of lewd or obscene pictures in the definition of harassment.

Mr. Pawlowski noted the attached three zero notes.

[2:01:12 PM](#)

Co-Chair Meyer reiterated that a constituent of his had brought the legislation forward.

[2:01:29 PM](#)

Representative Holm asked if the zero note would create a potential problem for the Department of Law. He questioned if there was an indication of prosecution coming forward and asked if the note should be classified as indeterminate.

[2:02:08 PM](#)

Mr. Pawlowski understood that the departments could absorb any change to the definition. He clarified that harassment is not happening as much as they believe it will be in the future.

Co-Chair Meyer pointed out it would be classified as a Class B misdemeanor. Representative Holm asked more information regarding how the impact will be handled.

[2:03:05 PM](#)

Representative Kerttula indicated she had questions for Ms. Carpeneti, Department of Law.

[2:03:59 PM](#)

ANNE CARPENETI, ASSISTANT ATTORNEY GENERAL, LEGAL SERVICES SECTION-JUNEAU, CRIMINAL DIVISION, DEPARTMENT OF LAW, offered to answer questions of the Committee.

Representative Kerttula asked about the information attempting to be outlawed by passage of the bill and if conduct and speech were included. She thought that the State would be creating problems [inaudible]. She inquired about the limited jury option and how difficult would it be to show if infringement were substantial. She asked if it would be dependant upon each case.

Ms. Carpeneti acknowledged that was correct. She noted that the case that brought the legislation forward also involved anonymous phone calls. The legislation is less speech and more conduct oriented.

[2:05:26 PM](#)

Representative Kerttula emphasized that it could happen, and wanted it noted for the record. Ms. Carpeneti agreed.

[2:05:58 PM](#)

Vice Chair Stoltze questioned if it could become a free speech issue.

Mr. Pawlowski interjected that there had been discussion regarding that in the House Judiciary Committee. The distinction is that the conduct is not judged and based on the interpretation of the person who the picture is of, but rather the intent of the person publishing it. He stressed that would be when conduct crosses the line. The proposed legislation is intended to address that place.

[2:07:27 PM](#)

MARC ANTRIM, COMMISSIONER, DEPARTMENT OF CORRECTIONS, noted that the Administration does support the legislation. He provided comments on a case that happened within the Department of Corrections in the late 1990's at the Lemon Creek Correctional Center. In that case, an employee was accused of "guy cruising". The mystery was unsolved. The Department noticed a website called "My Fantasy Rape", which was created by a student on campus in Colorado. He emphasized that these are "serious" concerns.

[2:14:54 PM](#)

Representative Kerttula inquired what change that person had been prosecuted under. Commissioner Antrim replied that Colorado is one of seven states that has a criminal liable statute. Those statutes have been attached on the basis of free speech. Not many accused have been prosecuted under it, however, that person was charged with impersonating a police officer and falsifying documents. Alaska was not able to file charges on that person in Colorado.

[2:15:50 PM](#)

Representative Kerttula advised that the proposed statute would not change that and that Alaska still would not be able to "take" that person with passage of this bill. Commissioner Antrim agreed.

[2:16:20 PM](#)

Representative Hawker referenced the proposed new language:

"(6) publishes, posts, or distributes electronic or printed photographs, pictures, depictions, or films that show the genitals, anus, or female breast of the other person or show that person engaged in a sexual act".

Representative Hawker asked what would happen if it were a composite photograph adjusted digitally and could that provide an affirmative defense.

Ms. Carpeneti advised that behavior could not be covered under the proposed language.

Representative Hawker asked if it was the intent that it not be covered in the bill.

[2:18:10 PM](#)

Co-Chair Meyer thought that it would be covered someplace else in the bill. Mr. Pawlowski interjected that it is not covered in the House Judiciary Committee version. The issued addressed by Legislative Legal is free speech and how

it becomes more problematic reaching away from the actual person. HB 326 attempts to walk a "fine line" between addressing free speech issues and staying on the correct line. Legislative legal warned about "going to that place" using the actual composite pictures.

[2:19:04 PM](#)

Representative Hawker observed that with the ability used in digital imagery, there could be a loophole. Co-Chair Meyer agreed, noting that the only intent with the proposed legislation was to prevent using current technology to harass. Ms. Carpeneti advised that the legislation is a limited approach because of 1st Amendment concerns.

[2:19:50 PM](#)

Representative Kerttula pointed out that it could fall into the indecent photography statute.

[2:20:13 PM](#)

Representative Hawker mentioned "consensual behavior" related to the 1st Amendment. He asked if a prosecutor could accuse someone engaged in consensual behavior. Co-Chair Meyer pointed out that issue was addressed in the House Judiciary Committee.

Ms. Carpeneti stated that the photos in the proposal would have been taken consensually, which is how it differs from indecent photographic viewing, photos taken without consent. These are taken with consent and then used without consent.

Representative Hawker stated that the critical element is that the burden of proof must be established in order to determine harassment.

[2:21:27 PM](#)

Representative Stoltze asked if there had been discussion of the depictions. Mr. Pawlowski said there has been no discussion in Committee. He recalled that Legislative Legal Services agreed to include the language as a definition of photograph versus how a picture can be printed. That is standard language and was lifted from the Alaska Statute (AS) 11.61.123 definition.

[2:22:17 PM](#)

Mr. Pawlowski commented that the language key to Representative Hawker reference is that it would have to be limited to what is actually on that person's body. The proposed legislation is limited, but the behavior exists and must be stopped.

2:22:48 PM

Representative Foster MOVED to REPORT CS HB 326 (JUD) out of Committee with individual recommendations and with the accompanying zero notes. There being NO OBJECTION, it was so ordered.

CS HB 326 (JUD) was reported out of Committee with a "do pass" recommendation and with three zero notes by the Alaska Court System, the Department of Law and the Department of Public Safety.

#

ADJOURNMENT

The meeting was adjourned at 2:24 P.M.