

HOUSE FINANCE COMMITTEE
March 2, 2006
1:42 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:42:38 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair
Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Richard Foster
Representative Mike Hawker
Representative Jim Holm
Representative Reggie Joule
Representative Mike Kelly
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Beth Kerttula
Representative Carl Moses

ALSO PRESENT

Representative Jay Ramras; Konrad Jackson, Staff,
Representative Kurt Olson; Mike Pawlowski, Staff,
Representative Kevin Meyer; Sheldon Winters, State Farm
Insurance Representative; Jane Pierson, Staff,
Representative Jay Ramras

PRESENT VIA TELECONFERENCE

Quinlan Steiner, Director, Office of Public Defender,
Anchorage; Josh Fink, Public Advocate, Office of Public
Advocacy, Anchorage

SUMMARY

HB 321 An Act relating to high risk operation of a motor
vehicle, aircraft, or watercraft while under the
influence of an alcoholic beverage, inhalant, or
controlled substance and to refusal to submit to a
chemical test.

HB 321 was HEARD and HELD in Committee for further
consideration.

HB 394 An Act relating to allowing insurance policies to be filed, approved, and delivered in languages other than English if an official English language version is also provided.

CS HB 394 (L&C) was reported out of Committee with a "no" recommendation and with zero note #1 by the Department of Commerce, Community & Economic Development.

HB 395 An Act extending the period of the fire season.

CS HB 395 (FIN) was reported out of Committee with a "do pass" recommendation and with a new zero note by the House Finance Committee.

[1:43:18 PM](#)

#HB395

HOUSE BILL NO. 395

An Act extending the period of the fire season.

Co-Chair Chenault MOVED to ADOPT work draft #24-LS1550\F, Bullock, 3/2/06, as the version of the legislation before the Committee. There being NO OBEJCTION, it was adopted.

KONRAD JACKSON, STAFF, REPRESENTATIVE KURT OLSON, SPONSOR, explained the changes that had been made. The committee substitute adds an immediate effective date and changes the date of the fire season by adding a month to the beginning and ending one month earlier. With that change, the fiscal note was zeroed out. Mr. Jackson noted a conceptual amendment, which would change the title.

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Representative Kelly indicated that he supports the committee substitute. He appreciated the sponsor's help in reaching the zero note.

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Co-Chair Meyer MOVED to ADOPT conceptual Amendment #1, which would make changes to Page 1, Line 1, after "An Act", deleting "extending" and inserting "relating to". Co-Chair Chenault OBJECTED.

Co-Chair Meyer explained that intent of the amendment was to make a necessary title change. Co-Chair Chenault WITHDREW his OBJECTION. There being NO further OBJECTION, it was adopted.

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Representative Foster MOVED to REPORT CS HB 395 (FIN) out of Committee with individual recommendations and with the new zero note. There being NO OBJECTION, it was so ordered.

CS HB 395 (FIN) was reported out of Committee with a "do pass" recommendation and with a new zero note by the House Finance Committee.

#HB394
[1:48:29 PM](#)

HOUSE BILL NO. 394

An Act relating to allowing insurance policies to be filed, approved, and delivered in languages other than English if an official English language version is also provided.

MIKE PAWLOWSKI, STAFF, REPRESENTATIVE KEVIN MEYER, explained that HB 394 would remove an obstacle that prevents companies from serving the 80,000 Alaskans that currently speak a language other than English.

The problem is that in current statute, there is no provision, designating which version of an insurance policy or associated materials would be the official version. At this time, all materials are published in English. Designating an official version in English would allow companies to service their customers better.

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Representative Weyhrauch questioned if the Department of Commerce, Community & Economic Development supports the change.

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Mr. Pawlowski responded that the Division of Insurance representative was not able to come to the meeting. He noted the letter in member's indicating support.

Representative Weyhrauch asked why the bill was needed.

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SHELDON WINTERS, REPRESENTATIVE FOR STATE FARM INSURANCE suggested that HB 394 is a win-win bill. It benefits the consumer and the industry, as it provides a better product. The Division of Insurance supports it.

Mr. Winters pointed out in today's society, insurance permeates basically everything. The intent of the

legislation is to provide better information about the insurance product to foreign speaking customers so that they can make wiser choices about their insurance decisions.

In Alaska Court case law, when there is a dispute about the insurance contract, the court will look to the language of the insurance policy and any other evidence. The bill does not control that, but does address the concern if insurance companies provide foreign language advertising or policy. The English version controls as long as the other requirements are met. Mr. Winters offered to answer questions of the Committee.

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Co-Chair Meyer inquired if the burden would be on the insurance companies. Mr. Winters replied it would. There is nothing that prohibits the insurance companies from issuing foreign language advertising. When filing with the Division of Insurance, the actual policy form would be in English.

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Representative Weyhrauch asked why the bill was needed and what currently prohibits it under State law.

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Mr. Winters responded that there is nothing that prohibits the practice except for the Supreme Court case law, if a foreign language version available, the Supreme Court could base their dispute on the fact that the foreign language version would control. Given that, insurance companies are reluctant to issue any information in a foreign language.

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Representative Weyhrauch asked if there is a difference between a foreign language and an English version of a policy, then which version would control. Mr. Winters noted that the legislation would clarify that the English version would rule.

Representative Weyhrauch asked if that was true, even if the customer was not able to read English. Mr. Winters clarified that without the provision, there would be no foreign language provision at all. The idea is that information would be provided in a foreign language for their information, but a disclaimer would exist that the English version ultimately controls. The point is that without the bill, the foreign language-speaking customer will have no translation.

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Representative Weyhrauch asked if the Court presently uses all evidence, has there been overriding of that ruling. Mr. Winters understood that was the direction of the Statute. He added, it would only apply to documents in English and not a foreign language. There would be a disclosure in both languages.

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Representative Joule observed testimony indicating that "foreign" really meant non-English. He advised that the Alaska Native language is not foreign and recommended using "non-English" speaking.

Mr. Winters apologized, noting they had attempted to change it to non-English.

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Co-Chair Meyer took responsibility for the use of the word foreign.

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Representative Kelly asked if the change had been made elsewhere in Statute. Mr. Winters did not know. Co-Chair Meyer interjected that this was the first time the issue had come up as far as he knew. Representative Kelly inquired if he thought it would be the first of many.

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Co-Chair Meyer did not know; he admitted that he did not know if other industries would need the extra documentation. Mr. Winters did not think the legislation would "open the flood gates". The insurance arena is unique. Court law interprets an insurance contract very strictly. In an insurance dispute, there is a case precedence noting that the review would not be limited to the contract, which is the concern.

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Representative Kelly worried that changing the language would affect many other statutory concerns.

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Co-Chair Meyer did not agree with that concern, noting that English is the dominant language and the one accepted by the State.

Mr. Winters added that the legislation addresses the opportunity to provide policy brochures in both English and non-English.

Representative Kelly provided an example of his involvement on a bank board. He reiterated his concern about all the other potential agencies that could be affected.

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Representative Foster discussed the influx of people from Southeast Asia in Nome and how the legislation could benefit them in business. He added that for the most part, there are elders that cannot read English. He thought that the bill would fill a missing void.

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Representative Weyhrauch asserted that insurance companies can already provide the non-English information. He stressed that the concern remains, the legal immunity and deterrent of the insured.

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Mr. Pawlowski pointed out that the legislation would not provide a policy call for knowingly misrepresenting terms in the foreign language, as that would be a violation of the chapter. The dilemma is that no translation can be perfect and being a translation, it would attempt to be as close as possible.

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Representative Weyhrauch stated that insurance companies are well advised to avoid punitive damages.

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Representative Kelly asked if consideration had been made to adding language that could cover all statutes. Mr. Pawlowski responded they had not gone that far. The legislation clarifies that English is the official version for insurance. The larger issues were not addressed. As far as the State is concerned, English is the official version.

[2:08:54 PM](#)

Co-Chair Meyer agreed, noting that English is the dominant language. Representative Kelly predicted other businesses would want the same consideration down the road.

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Representative Foster MOVED to REPORT HB 394 out of Committee with individual recommendations and with the accompanying zero note. There being NO OBJECTION, it was so ordered.

CS HB 394 (L&C) was reported out of Committee with a "no" recommendation and with zero note #1 by the Department of Commerce, Community & Economic Development.

#HB321
[2:10:23 PM](#)

HOUSE BILL NO. 321

An Act relating to high risk operation of a motor vehicle, aircraft, or watercraft while under the influence of an alcoholic beverage, inhalant, or controlled substance and to refusal to submit to a chemical test.

REPRESENTATIVE JAY RAMRAS, SPONSOR, advised that HB 321 proposes new statutory language, which addresses tougher Driving Under the Influence (DUI) laws. Presently, it is a crime in Alaska to operate a vehicle with a blood alcohol level of .08 or greater. The proposed legislation would not change current law, but would create an enhanced crime of high risk driving under the influence. A person commits the crime of high risk driving under the influence, if it is determined by a chemical test that a person's blood alcohol concentration (BAC) is .16 or greater. A person who is convicted of high risk DUI would face enhanced sentences. Under the legislation, sentencing for refusal to submit to a chemical test would also be made tougher, to concur with the high risk DUI sentences.

Representative Ramras pointed out that current information from the National Highway Traffic Safety Administration (NHTSA) shows that 31 states have already adopted laws dealing with enhanced penalties for high-blood alcohol level driving offenses. The NHTSA reports that over half of all alcohol-related fatalities involve someone with a .15 BAC or higher. The high-risk driver provision of HB 321 would take clear aim against the most egregious drunk driving offenders, providing stiffer penalties is a legal remedy to bring their numbers down. As we have seen from the needless and tragic incidents that have occurred in the Interior this past year, now is the time for Alaska to address stricter penalties for higher-risk driving under the influence.

Representative Ramras emphasized that the legislation is part of a full approach to improve alcohol management in Alaska. Earlier legislation introduced, which has been

signed into law, involved renewal of alcohol server education cards.

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Representative Ramras noted that in the House Judiciary Committee, questions were posed regarding changing the behavior of the drunk driver or changing how the deals with those drivers. He acknowledged that the Legislature is attempting to hold down rising costs within government. He noted the repeal accompanying the bill, which would help measure the effect of the legislation for a three-year period. Representative Ramras pointed out that the House Judiciary Committee (HJC) version of the bill was the one being offered.

The legislation attempts to catch problem drivers at the moment of crisis and put them into therapeutic court. He urged that the State Legislature opt to end up with "safer streets".

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JANE PIERSON, STAFF, REPRESENTATIVE JAY RAMRAS, offered to answer questions of the Committee.

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Representative Kelly noted that he supports the legislation, however, remembered concerns voiced by Mothers Against Drunk Driving (MADD).

Representative Ramras replied that the rewrite of the bill has the support of MADD and the Cabaret Hotel and Restaurant Retail Association (CHARR). He noted it is difficult to get those two groups to align on anything. Initially, MADD was opposed to the legislation as it attempts to draw a standard between drunk and "really drunk".

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Representative Holm asked if there was data available regarding the reduction to Driving Under the Influence (DUI) based upon the change from .08 to a super high rate if .15.

Representative Ramras advised that was one of the difficulties expressed in the House Judiciary Committee. Some states referred to that as providing a lesser degree of recidivism; however, that information was antidotal in nature. That prompted Representative Coghill to ask if it changed the behavior of the drinker or the way the State deals with the drinker. The committee substitute places a repealer in it to see how it goes for the next three years.

He recommended that the Department of Corrections determine the success.

[2:25:02 PM](#)

Ms. Pierson added that studies indicate that people with a high BAC are more likely to recidivate; that group tends to have more problems with alcohol abuse. The intent is to target that group.

Representative Ramras acknowledged that Representative Coghill had voice that concern. Representative Ramras encouraged members to pass the bill from Committee and support it on the House Floor.

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Representative Holm pointed out the fiscal note does not indicate a departmental change down the road. He would have hoped that the Department of Corrections sees less expense down the line with passage of the bill.

[2:28:19 PM](#)

Co-Chair Meyer mentioned that he intended to HOLD the bill in Committee to discuss ways to reduce the fiscal note, following public testimony.

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Representative Hawker commented on the separation of "drunk from really drunk" and asked if there was any scientific evidence used to determine the BAC levels.

Representative Ramras responded that in the HJC, Representative Gara had addressed that concern. He pointed out that in the federal transportation bill, there are funds available to address high BAC drinkers. However, there are other components, which must be fulfilled, including roadblocks and checkpoints; those factors would not work in Alaska. It is recognized across the country that a high BAC limit standard ranges between .15 and .22. The legislation choose .16.

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Representative Hawker thought that the federal government .08 standard "blackmailed" the State of Alaska. He was outraged by the standard, stating that .16 compounds the problem.

Representative Hawker asked the percentage of error that can happen when taking the measurement. Representative Ramras

requested that the Department of Law or the Department of Public Safety speak to that.

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Representative Hawker suggested that the decisions made were "arbitrary" and will have serious consequences for individuals. He asked if the sponsor had looked at aggravator factors including accident or injury to someone.

Representative Ramras said those penalties already exist. He pointed out that the proposed figures are arbitrary as are the ones proposed by the oil industry. Representative Hawker argued that HB 321 seriously affects people's lives.

Representative Weyhrauch asked if the intended sunset was 2009. Representative Ramras advised the recommendation is a sunset in three years.

Representative Kelly related a story about the alcohol deaths related in Fairbanks. He indicated five bills resulting from that outrage; he asked if HB 321 had been chosen at the exclusion of the others.

Representative Ramras responded that MADD was not impressed with HB 321 as a deterrent. The legislation targets those people who have consumed a great deal of alcohol and are demonstrating impairment, potentially causing a great deal of harm. The bill is only one of many items MADD hopes to see passed.

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Representative Joule questioned if a server could be charged with civil liability if the person drinking moved from one establishment to another.

Representative Ramras said they could and that language already exists in statute. He pointed out the risks involved. The younger age offender is the target; hopefully before they become habitual offenders.

Representative Holm asked for an explanation of BAC and how the .08 number is attained. He concurred with Representative Hawker's earlier observation about the level of intoxication at .16 and voiced concern about the average drinkers.

Representative Ramras said he accepts the .08 standard because it is the law of the land. He stressed that no one should not operate a vehicle at .16 BAC.

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Ms. Pierson explained how a drunken wheel works, noting it provides a low standard.

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QUINLAN STEINER, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, OFFICE OF PUBLIC DEFENDER, ANCHORAGE, offered to answer questions on the fiscal note.

JOSH FINK, (TESTIFIED VIA TELECONFERENCE), PUBLIC ADVOCATE, OFFICE OF PUBLIC ADVOCACY, offered to answer questions of the Committee.

Representative Ramras recommended checking with the State Troopers to get a more accurate read on the numbers.

Representative Kelly pointed out that the proposed numbers were different from those made by MADD.

Representative Joule discussed a device for cars that can measure intoxication. Representative Ramras replied it is called an Ignition Lock, adding that it would be difficult to have a standard that could not be enforced in both an urban and rural areas. That device can cause many operational difficulties.

HB 321 was HELD in Committee for further consideration.
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ADJOURNMENT

The meeting was adjourned at 2:49 P.M.