

**ALASKA STATE LEGISLATURE**  
**HOUSE JUDICIARY STANDING COMMITTEE**

March 31, 2006

1:18 p.m.

**MEMBERS PRESENT**

Representative Tom Anderson  
Representative John Coghill  
Representative Pete Kott  
Representative Les Gara

**MEMBERS ABSENT**

Representative Lesil McGuire, Chair  
Representative Peggy Wilson  
Representative Max Gruenberg

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 32

Proposing an amendment to the section of the Constitution of the State of Alaska relating to marriage.

- HEARD AND HELD

HOUSE BILL NO. 415

"An Act relating to landowners' immunity for allowing use of land for a recreational activity; and providing for an effective date."

- MOVED CSHB 415(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 413

"An Act relating to the burning capability of cigarettes being sold, offered for sale, or possessed for sale; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 347

"An Act relating to mandatory motor vehicle insurance, license suspensions, and notices relating to motor vehicles and driver's licenses."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 32

SHORT TITLE: CONST. AM: BENEFITS & MARRIAGE

SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/10/06 (H) READ THE FIRST TIME - REFERRALS  
02/10/06 (H) JUD, FIN  
03/15/06 (H) JUD AT 1:00 PM CAPITOL 120  
03/15/06 (H) -- Meeting Canceled --  
03/17/06 (H) JUD AT 1:00 PM CAPITOL 120  
03/17/06 (H) -- Meeting Canceled --  
03/27/06 (H) JUD AT 1:00 PM CAPITOL 120  
03/27/06 (H) <Bill Hearing Postponed to 03/29/06>  
03/29/06 (H) JUD AT 1:00 PM CAPITOL 120  
03/29/06 (H) Heard & Held  
03/29/06 (H) MINUTE(JUD)  
03/31/06 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 415

SHORT TITLE: LIABILITY FOR RECREATIONAL LAND USE

SPONSOR(S): REPRESENTATIVE(S) SEATON

02/01/06 (H) READ THE FIRST TIME - REFERRALS  
02/01/06 (H) RES, JUD  
03/22/06 (H) RES AT 1:00 PM CAPITOL 124  
03/22/06 (H) Moved Out of Committee  
03/22/06 (H) MINUTE(RES)  
03/24/06 (H) RES RPT 6DP 3NR  
03/24/06 (H) DP: KAPSNER, GATTO, OLSON, SEATON,  
ELKINS, RAMRAS;  
03/24/06 (H) NR: SAMUELS, LEDOUX, CRAWFORD  
03/29/06 (H) JUD AT 1:00 PM CAPITOL 120  
03/29/06 (H) <Bill Hearing Postponed to 03/31/06>  
03/31/06 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 413

SHORT TITLE: BURNING CAPABILITY OF CIGARETTES

SPONSOR(S): REPRESENTATIVE(S) JOULE

02/01/06 (H) READ THE FIRST TIME - REFERRALS  
02/01/06 (H) STA, JUD, FIN  
02/09/06 (H) STA AT 8:00 AM CAPITOL 106  
02/09/06 (H) Moved CSHB 413(STA) Out of Committee  
02/09/06 (H) MINUTE(STA)  
02/13/06 (H) STA RPT CS(STA) 6DP

02/13/06 (H) DP: GARDNER, LYNN, ELKINS, RAMRAS,  
GRUENBERG, GATTO  
03/31/06 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 347

SHORT TITLE: MOTOR VEHICLE INSURANCE & NOTICE

SPONSOR(S): REPRESENTATIVE(S) GARA, LYNN

01/09/06 (H) PREFILE RELEASED 1/6/06  
01/09/06 (H) READ THE FIRST TIME - REFERRALS  
01/09/06 (H) STA, JUD  
01/31/06 (H) STA AT 8:00 AM CAPITOL 106  
01/31/06 (H) Heard & Held  
01/31/06 (H) MINUTE(STA)  
02/14/06 (H) STA AT 8:00 AM CAPITOL 106  
02/14/06 (H) Heard & Held  
02/14/06 (H) MINUTE(STA)  
02/16/06 (H) STA AT 8:00 AM CAPITOL 106  
02/16/06 (H) Moved CSHB 347(STA) Out of Committee  
02/16/06 (H) MINUTE(STA)  
02/17/06 (H) STA RPT CS(STA) NT 3DP 3NR  
02/17/06 (H) DP: GARDNER, GATTO, SEATON;  
02/17/06 (H) NR: GRUENBERG, ELKINS, RAMRAS  
03/31/06 (H) JUD AT 1:00 PM CAPITOL 120

**WITNESS REGISTER**

SCOTT MILLER

Juneau, Alaska

POSITION STATEMENT: During discussion of HJR 32, expressed concerns and asked the committee to defeat the resolution.

MARSHA BUCK

Parents, Families and Friends of Lesbians and Gays (PFLAG)  
Juneau

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

JUDY CRONDAHL

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

JERI MUSETH

Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

EVE DILLINGHAM, Professor;

Representative  
Faculty Senate  
University of Alaska Southeast (UAS)  
Juneau, Alaska

POSITION STATEMENT: Read a resolution passed by the UAS Faculty Senate in opposition to HJR 32, and responded to questions.

DIANE MAYER  
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

LEE PARKER  
Juneau, Alaska

POSITION STATEMENT: Expressed concerns regarding HJR 32 and asked the committee to vote against it.

CHERYL HUMME  
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HJR 32.

SHIRLEY RIVAS  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns regarding HJR 32 and asked the committee to refrain from voting to place it on the ballot.

EDITH BAILEY  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns regarding HJR 32 and asked the committee to vote no on it.

MICHAEL "WES" MACLEOD-BALL, Executive Director  
Alaska Civil Liberties Union (AkCLU)  
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns regarding HJR 32 and urged the committee to stop the measure.

REPRESENTATIVE PAUL SEATON  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 415.

LINDSAY WINKLER  
Programs Management  
Homer Soil & Water Conservation District (SWCD)  
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 415.

ANNE MARIE HOLEN, Special Projects Coordinator  
Administration Department  
City of Homer  
Homer, Alaska

POSITION STATEMENT: Testified in support of HB 415 and urged passage of the bill.

BRUCE HESS  
Homer, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 415 and asked that the bill be moved from committee.

DAVID BRANN, Kachemak Nordic Ski Club  
Homer, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 415.

WAYNE STEVENS, President  
Alaska State Chamber of Commerce (ASCC)  
Anchorage, Alaska

POSITION STATEMENT: Provided comments during discussion of HB 415 and stated that the ASCC encourages passage of the bill.

REPRESENTATIVE REGGIE JOULE  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 413.

WARREN CUMMINGS, President  
Alaska Fire Chiefs Association (AFCA);  
Fire Chief  
City of Fairbanks  
North Pole, Alaska

POSITION STATEMENT: Testified in support of HB 413.

CAROL REED  
Alaska Fire Standards Council (AFSC)  
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 413.

GARY POWELL, Director State Fire Marshal  
Central Office  
Division of Fire Prevention  
Department of Public Safety (DPS)  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 413.

RUSS HAVEN, Legislative Counsel  
New York Public Interest Research Group (NYPIRG)  
Albany, New York

POSITION STATEMENT: Encouraged the legislature to pass HB 413.

ANDREW MCGUIRE  
National Fire Protection Association (NFPA)  
Quincy, Massachusetts

POSITION STATEMENT: During the hearing on HB 413, urged Alaska to join other states in passing fire-safe cigarette legislation.

DUANE BANNOCK, Director  
Division of Motor Vehicles (DMV)  
Department of Administration (DOA)  
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 347.

TOM McGRATH  
(No address provided)

POSITION STATEMENT: Provided comments during discussion of HB 347, and suggested changes.

#### **ACTION NARRATIVE**

**REPRESENTATIVE TOM ANDERSON**, acting as chair, called the House Judiciary Standing Committee meeting to order at [1:18:42 PM](#). Representatives Anderson, Coghill, Gara, and Kott were present at the call to order.

#### HJR 32 - CONST. AM: BENEFITS & MARRIAGE

[Contains brief mention of SJR 20, companion bill to HJR 32.]

[1:19:53 PM](#)

REPRESENTATIVE ANDERSON announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 32, Proposing an amendment to the section of the Constitution of the State of Alaska relating to marriage.

[1:20:22 PM](#)

SCOTT MILLER observed that some who testify on HJR 32 - and perhaps even some members of the committee - seem to believe that homosexuality represents some kind of perverse choice, and that laws like this are necessary to label that perversity for

society and maybe even to influence that choice. However, one can hardly think of a social situation in America that confers so little gain and yet so much danger, frustration, and heartache as being gay. Why would anyone ever "choose" to be persecuted, ridiculed, and legislated into the fringes, possibly to end up crucified on a barbed wire fence in Wyoming as one college student was? Why would anyone persevere through all that for a lifetime, or choose to live in a same-sex relationship for decades, if it were not an honest expression of his/her true identity?

MR. MILLER observed, then, that if such is not a "choice," then same-sex couples are either in the grip of Satan, deluded, or really and truly gay. He said he rejects the first explanation because believing in such would foster the same kind of atmosphere that surrounded the Salem witch trials; in that kind of society, no one is ever free from suspicion, which in turn means that no one is ever free and only those who lie the loudest are safe. Of the two remaining explanations for saying one is gay - either one is deluded or is honestly and truly gay - he pointed out that there is a lot of evidence that such a person is not deluded, though perhaps some people might say or think they are gay but aren't. However, few, if any of the latter are in committed same-sex relationships.

MR. MILLER pointed out that the American Psychological Association holds clearly that homosexuality is not a mental disorder, hence there is no need for a cure. He relayed that all his life he has had gay/lesbian/bisexual/transgender (GLBT) friends, acquaintances, teachers, and professional associates, and surmised that so, too, have committee members whether they knew it or not. Many of these people, he added, are smart, competent, creative, and they manage great public and family responsibilities with skill and clarity.

MR. MILLER explained that his daughter is a lesbian, adding that she is a former honor student who is pursuing a career in law and public health. He went on to say:

She is smarter, better organized, and more articulate than I am. She has navigated a complicated life and world for 25 years intelligently and productively, and she has been unwaveringly clear about her sexuality, without making a big deal about it, since she was 12 [years old]. I don't think she is deluded. I think she is honest, brave, and admirable, and I'd like to

think there is a future for her in the state where she was born.

I don't expect the average voter to know how to deal with all this. Most people don't have the information, the experience, the intellectual training, or the self-awareness to treat this issue fairly. But when Alaskan citizens are being honest about who they truly are, and the State moves to punish them for that, society has a big problem. That's where legislators like you need to step in above the fray and above politics. I hope you will accept that responsibility and defeat this measure. Thank you.

[1:24:24 PM](#)

MARSHA BUCK, Parents, Families and Friends of Lesbians and Gays (PFLAG) Juneau, relayed that she would be speaking in opposition to HJR 32. She said:

This resolution has a current, direct, and harmful effect on my daughter and on her family, and on many, many of my Alaskan friends and their long-term, same-sex-partner families, and on numerous heterosexual domestic-partner families who live throughout our great state. And I wonder how many of your families it affects as well? If you think only of the current effect on your families, that might appear to be simply a rhetorical question, because many of us think we don't know of any same-sex couples in our immediate family.

But on a nationwide basis, approximately one-fourth of all extended families contain a gay, lesbian, bisexual, or transgender family member. Now, that doesn't necessarily mean that everyone in the family knows that a member is gay, or lesbian, or [bisexual], or accepts the fact that the member is gay. But the family member is there nonetheless - silence or denial doesn't make them go away. It would behoove all of us to ask: "Which niece, which nephew, which child, or which grandchild might this resolution affect right now?" and perhaps, "Am I loving enough so that I can listen as my family member shares this personal truth when it occurs?"

In addition, we must consider the future, because we're looking at a potential constitutional amendment here. Which of our children, our grandchildren, our great grandchildren, or our cousins, or grand nieces, or grand nephews will unavoidably be gay or lesbian or bisexual as they mature? Research shared in the segment of 60 Minutes shown on CBS television recently ... made it clear that scientists don't yet know why a person is gay or lesbian, but that it's clear, by the scientific research that's being conducted right now, that the reasons are a combination of genetics and ... hormonal factors - not personal choice.

So if you are considering passing HJR 32 out of committee, which members of your family will you be harming? In addition to my loved ones, which of your loved ones will be denied benefits [either] currently or in the future? ... Please vote no on HJR 32. Thank you.

[1:27:10 PM](#)

JUDY CRONDAHL said:

We all agree that families are important. Families provide the basic protections for individuals and the building blocks of our communities and society. ... Government is the entity empowered to set the rules for our society and provide protections for individuals, families, and communities. You, as legislators, have a great responsibility to ensure that all Alaskans have access to the necessities of life and fair treatment within our families, communities, and society. There are only 60 of you to do this and you are limited to whatever actions you can agree on within a constitutionally mandated 120-day session.

What are the prevailing problems in our state? We have a high rate of alcohol abuse, which has severely impacted many families in our state, resulting in child abuse and neglect, accidental injuries, and deaths. We have a high rate of poverty, especially in our rural areas, many of which also lack basic sanitation facilities and other 20th century amenities. High fuel prices, a boon for state government, have created hardships for many who are

living on the economic edge, and [have] impacted services for us all. These are not our only problems, but I offer them as examples of the important issues facing state government and you as our elected representatives.

Now, [comes] the issue of benefits for same-sex couples and the proposal embodied in HJR 32. First of all, I am really puzzled by the amendment changing the title from "Marriage" to "Marriage and related limitations." I may have a more positive view of marriage than the sponsors of this resolution, but, having been married for almost 41 years, I looked on marriage as an expansion of opportunities rather than a limitation or handicap. [Second], as to the stated purpose of this resolution, how does denying benefits to anyone help anyone else? How does an injury to my friends' families protect either my family or my marriage?

Is the provision of benefits one of the most pressing problems in our state, worthy of even one hour's time in a 120-day session? Does the time spent denying partner benefits take away from time spent preventing oil spills on the North Slope? How will the denial of partner benefits help the family that cannot afford fuel oil? Are some of you Christians? At the end of your lives will you be able to say that you used your talents wisely? Will you be able to say that you loved your neighbors as yourselves? That you used your talents to feed the hungry, house the poor, and comfort the ill?

Or are you using your talents to turn people against each other, spread fear, and foment hatred? Do you use your high positions to generate compassion or pass judgment? How will you be judged? If some of you are not Christians, if the work you leave behind after you die is your only shot at immortality, how do you want your game scored? Will it be by money in the bank, number of toys left behind, fearful enemies, or a loving family and friends? Do family values apply only to certain kinds of families, or do we want to recognize the potential value of all families?

You are the leaders in our society and our state - you have a great responsibility to use your talents and

time to protect individuals and families, to create a better society and state through fair treatment for all. Please do not waste precious time on something that does just the opposite; instead, focus on the many problems that are so important and those for which solutions will bring Alaskans together. Divisiveness is not good for families, it is not good for communities, and it is not good for Alaska. Please vote no on HJR 32. Thank you.

[1:31:32 PM](#)

JERI MUSETH relayed that she would be speaking in opposition to HJR 32. She said:

I have lived in Alaska for more than 42 years, and I'm presently employed as a project manager working with elders; I'm also a student at the University of Alaska. I'm widowed, I raised my daughter in Southeastern Alaska, and I've watched my grandchildren grow up Alaskan. My family and I live a straight lifestyle, but I'm fortunate enough to have friends who participate in same-sex partnerships. My friends are professionally employed in various positions around the community; some have raised or are raising families, they buy homes, they contribute to the economy, they do volunteer work in the community, go to church, and participate in loving relationships. In short, they live lives very similar to you and me.

... [House Joint Resolution 32] proposes to amend the Alaska [State] Constitution ...; for five years this paragraph has served the purposes of the people who voted for the amendment. When the Alaska Supreme Court decision, based on equal protection, decided that same-sex partners were entitled to health and other benefits afforded a spouse, some residents did become upset. The [Alaska] Supreme Court decision does not undercut the institution of marriage. And because there are actually not many state employees in same-sex [relationships], the decision will not place a significant financial burden on the state. ...

I just had to do a research paper on this topic, pro and con, on civil rights [for] gays - it was lengthy research - and what I found was, a lot of various, interesting reasoning. And it seems like people are

in this corner and this [other] corner, and they don't seem to slide and meet in the middle. So, as I'm going through this, I'm wondering, if [providing] benefits for same-sex partners is not going to put a financial burden on the state or other participating businesses or agencies, then what's the purpose of the ... [resolution]?

This country was founded on the notion of separation of church and state. If this [resolution] ... has a purely religious purpose, it's [a] clear violation of the separation of church and state. The bible actually has no standing in American law, and this is made clear by the intent of the First Amendment to U.S. Constitution. Not all religions have a problem with homosexuality. This ... [resolution] considers a serious civil rights issue. Besides health and pension benefits, it denies a partner the right to make emergency medical decisions for their partner, inherit mutually purchased property, and add additional health insurance for natural or adopted children.

Alaska has one of the best state constitutions in the country, even 50 years after its adoption. It is a fundamental document that people have not tried to change every time the courts do [something] they don't like. We need to respect our [Alaska State] Constitution and all the people that it protects. Amending the [Alaska State] Constitution to remove, rather than enhance, protection is not painting a flattering picture for the people of this state. Oppression can never be accepted as normal. And I thank you for your valuable time, and for the consideration of my viewpoint.

[1:36:12 PM](#)

EVE DILLINGHAM, Professor; Representative, Faculty Senate, University of Alaska Southeast (UAS), read a resolution passed by the Faculty Senate on March 24, 2006; that resolution read [original punctuation provided along with some formatting changes]:

**RESOLUTION ON CONSTITUTIONAL AMENDMENT: BENEFITS &  
MARRIAGE  
(SJR 20 AND HJR 32)**

**WHEREAS**, Discrimination against faculty on the basis of marital status is expressly prohibited by the University of Alaska Board of Regents Statement of Non-discrimination; and

**WHEREAS**, the UAS Faculty Senate affirms the importance of complying with university nondiscrimination policies; and

**WHEREAS**, to comply with SJR 20 and HJR 32 the university would deny financially interdependent partners (FIPs) insurance benefits, family membership at the Student Recreation Center, tuition waivers, faculty housing, and other valuable benefits currently offered counter to university policy prohibiting discrimination based on marital status; and

**WHEREAS**, The Faculty Senate affirms that providing insurance and other benefits to FIPs is a valuable way to recruit and retain excellent faculty; now

**THEREFORE BE IT RESOLVED**, That the UAS Faculty Senate is opposed to SJR 20/HJR 32; and

**BE IT FURTHER RESOLVED**, That the UAS Faculty Senate commends the University of Alaska statewide administration for its ongoing support of financially interdependent partner (FIPs) benefits.

REPRESENTATIVE ANDERSON surmised that according to UAS's resolution, people in opposite-sex domestic relationships could expect to receive benefits as well.

MS. DILLINGHAM explained that according to [UAS] policy, at least 13 criteria must be met in order for one to be defined as a financially interdependent partner, and if those criteria are met, then one is entitled to benefits regardless of whether the relationship is same-sex or opposite-sex. In response to a question, she said that the University of Alaska Fairbanks (UAF) Faculty Senate has an identical resolution, but she is not sure whether the University of Alaska Anchorage (UAA) does.

REPRESENTATIVE GARA said that if HJR 32 passes, one group of employees will get health benefits for their whole families as part of their pay package, while the other group will be getting less of a pay package for the same work. He surmised that this

is the point being made by the UAS resolution, that it's a pay-package issue, a "sweat-equity-at-work" issue.

[1:40:34 PM](#)

DIANE MAYER said she is opposed HJR 32, and asked the committee to vote no on it. She went on to say:

After a job, health care is the biggest [factor] providing for family security. All state workers deserve equal access to their employee family benefits - not just those who are also allowed to marry. This is an issue of fair treatment of individuals, and good business for the State. Access to healthcare helps to prevent medical emergencies, and to cope when they hit.

Why would we want a State benefits system that unnecessarily puts some employees at risk of financial disaster from family medical emergencies, particularly while protecting their peers from the same stress and uncertainty? Why would you wish some employees fewer options than you have for your own family in a health crises? And why create this discrepancy knowing that such added stress and suffering, felt by one employee, would inevitably impact ... [his/her] coworkers and lower the office productivity.

Given the unanimous decision of the Alaska Supreme Court, the State has an opportunity to expand, at minimal cost, healthcare to more Alaskans, and improve the economic security of a minority - its gay and lesbian employees who are in committed, long-term relationships. From a business point of view, Alaska should jump at this opportunity. Whether some members like it or not, there are many talented and hardworking gay and lesbian people employed by the State of Alaska. And whether you recognize them or not, they are daily making contributions that benefit us all.

The State invests in each employee, their training, and their experience. We count on their judgment and attention on the job. We should put in place every workable option that improves the security and stability of our work force. And we should end these costly, divisive, and losing court battles. Our

[Alaska State] Constitution states that all persons have a natural right to the enjoyment of the rewards of their industry, and holds as its fundamental premise that all persons are equal and entitled to equal rights, opportunity, and protection under the law.

This does not conflict with the 1998 amendment defining marriage as between one man and one woman. Nor are relationships between consenting same-sex couples illegal. The Alaska Supreme Court got it right last October. The case was not about marriage, but about all State employees [having] equal access to their employment benefits. To state, as this resolution does, that, quote, "no other union is similarly situated to marriage", is blatantly untrue; if it were true we wouldn't be here, [and] you wouldn't have had much of the testimony you've had already.

MS. MAYER concluded:

From there, HJR 32 is just simply poorly drafted, confusing, and difficult to interpret. What is ... "quality of marriage" anyway? And who will be affected in the end? Please end this attack on minorities and on our [Alaska State] Constitution. I urge [your to] respect the diversity of Alaskans, to stand up for privacy and for fairness and for equal opportunities in Alaska. Please vote against HJR 32 - it's good business for Alaska. Thank you.

[1:45:33 PM](#)

LEE PARKER, after noting that she is a resident of Juneau currently serving in Antarctica, said that she doesn't support HJR 32 and doesn't really quite understand its purpose. For example, is it designed to protect married couples as defined as one man and one woman, and, given that definition, if HJR 32 is not passed, what would married couples lose? Would they lose any of their rights, benefits, or obligations? And, if HJR 32 is passed, what will married couples gain? Will they gain any additional rights, benefits, or obligations? Again, if married couples are not going to gain or lose anything through the passage of HJR 32, what is its purpose? Is HJR 32 instead simply directed against a small minority, a key group of people?

MS. PARKER said it seems as though HJR 32 is designed to remove rights from a small group of folks. She opined that both the U.S. Constitution and the Alaska State Constitution should expand people's rights and obligations, not reduce them, adding that she views HJR 32 as an attempt to reduce the rights and obligations, mostly, of those in the gay community. She asked that [the committee] tread cautiously when [attempting to make] any amendments to the Alaska State Constitution, again opining that everyone's rights and obligations should be expanded, not reduced. She also asked [the committee] to consider this issue carefully, judge wisely on it, and vote against [HJR 32].

[1:49:34 PM](#)

CHERYL HUMME said she is very opposed to HJR 32. Instead of working towards fairness, equal treatment, and equal rights, she observed, HJR 32 stresses discrimination, discrimination of people that the supporters of HJR 32 consider to be outside the norm - people who think differently than they do. Instead of working towards expanding healthcare to all Alaskans, HJR 32 is trying to narrow and restrict healthcare. Alaska has a rich history of [honoring] privacy and individual rights, she remarked, and went on to say:

I want to share how my brother and sister would be treated under this proposal. My sister is married and my brother has a domestic partner, Betsy. It astounds me which partnership this proposal would honor. My sister's husband has cheated on my sister, he has taken advantage of her financially, and disrespected her over and over again, but they're married, so it seems we should give these two better rights than the supporters [of HJR 32] would give my brother and Betsy. They have been together for over 10 years, they are both professionals, they own three houses together - imagine the tax dollars, there; yet they are not married, so the supporters of ... [HJR 32] would not want them to have the same rights.

I realize neither of my examples show same-sex couples, but they do [speak to] ... the supposed values surrounding marriage. I am a strong supporter of gay rights and could easily speak about how this proposal is wrong along those lines alone, but so many others are doing that wonderfully. I would like to show how this proposal is harmful to all Alaskans and [how it] is important for us not to get lost in what

this [proposed] amendment is actually saying. When I read this [proposed] amendment, I see that it talks about limiting benefits outside of marriage, plain and simple.

The supporters of [HJR 32] ... would like us to think only about same-sex unions because they hope that it will stir up indignation surrounding this issue. They will bring in large amounts of money from outside the state, as well, to stir up that anger and make it seem like an "us against them" issue. This proposal is against any individual who does not conform to the mandate of the supporters of this proposal. Over and over again I hear it said that the people who support this proposal are good people but that it's just simply a moral issue for them.

MS. HUMME concluded:

I have really come to loath the use of ... the word, "morals" because it usually is a code word for judgment. I simply cannot understand how you can talk about morals and still be willing to destroy families that are simply different from your own. I urge you to vote down this proposal and to not let this ... divisive proposal go any further. Thank you.

[1:52:18 PM](#)

SHIRLEY RIVAS said:

I hold the belief that when we, with no provocation, deliberately hurt our fellow human beings, we also hurt ourselves just as much or more. [House Joint Resolution 32] is designed to be hurtful to a certain segment of our minority population. First, the very act of singling them out is cruel, discriminatory, and unusual treatment. And then, by removing their rights and benefits, is further cruel and punishing treatment. I thought punishment was designed [to] punish convicted criminals: people who steal, commit murder, fraud - i.e., real crimes.

This proposed amendment is punishing a great number of people who have neither been convicted of, nor who have committed, a crime. The law says that we have a right to face our accusers ... in a court of law,

therefore this [proposed] amendment would further deny the GLBT community another right. It says to them, "You are being punished because of how you were born, not because of any crime you have committed." I repeat: Isn't punishment reserved for the accused and convicted?

I think the ... [Declaration of Independence] states, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness". Our pledge of allegiance states, "With liberty and justice for all." Who are "all?" "All" needs no explanation - it means, "all of us." [House Joint Resolution 32] is in direct opposition to these principles.

MS. RIVAS continued:

Another quote: "There is no error greater than that species of self-deception which leads intelligent beings to crave the exercise of power over other beings for the purpose of depriving these persons of their natural liberties. The golden rule of human fairness cries out against all such fraud, unfairness, selfishness, and unrighteousness. Only true and genuine liberty is compatible with the reign of love and the ministry of mercy." This is from a book published in 1955.

I am here today initially because I am the mother of a gay son. I am here to advocate for his rights and those of his partner. Because I am a mother of a gay son, I have become active in the gay community, I maintain dear friendships throughout the GLBT community, and know firsthand how damaging and hurtful HJR 32 is. This [resolution] characterizes my son and my friends as people who have earned punishment under our [Alaska State Constitution]. How can this be? They are simply people - they come from every segment of our community.

I personally know GLBT people who are doctors, lawyers, ministers, police officers, students, artists, nurses, teachers, waiters, cooks, musicians, firefighters, carpenters, computer nerds, architects,

Rolfers, non-profit administrators, painters, and more; these people work hard, pay taxes, raise children, and struggle with life's mysteries. Those people are us. As a society, remember, when we hurt one another, we ultimately hurt ourselves and society as a whole. This is legislation at its worst. Please do not vote to put it on the ballot. Thank you very much.

[1:58:07 PM](#)

EDITH BAILEY, after characterizing herself as a heterosexual retired commissioned officer, said she is a grandmother of 5, a mother of 4, and a foster mother of 45 - 5 of which have identified themselves as gay or lesbian. She went on to say:

I was there with them when they struggled with accepting their [sexual] orientation. It was through raising these teens that I came to fully understand that sexual orientation is not a choice. Since it is not a choice, it is just not right to consider denying rights based on it. As a female, I value my right to vote; it was only 1920 that we gained the right to vote - that was only 20 years before I was born. Probably few Americans now would even think about denying women the right to vote. It just sounds ridiculous to consider it.

I was a young adult during the civil rights movement. We look back at those days and wonder why did we deny individuals rights based on the color of their skin. It was only 1964 that blacks were assured the vote in the entire United States. And it seems so ridiculous when we look back - what were we so afraid of? Now we're standing at a pivotal point of rights for gays and lesbians. Let us not make those same stupid mistakes again.

Forget about quoting the bible - I remember the bible verses were quoted to support denying rights to both women and to blacks; we don't consider them to apply now. And if the rights of ... blacks to vote had been put to the people to vote, they would still be [second-class] ... citizens with no voting rights. It seems such a contradiction of the republican ideology of less government to find there's now a consideration

of government moving into the bedroom and denying rights based on sexual orientation.

Alaska prizes its right to privacy as expressed in its constitution - government must stay out of the private lives of people. My hope is that I will live long enough to see everyone treated equally. Please help realize this dream by voting no on this ... [resolution].

2:00:43 PM

MICHAEL "WES" MACLEOD-BALL, Executive Director, Alaska Civil Liberties Union (AkCLU), thanked the committee for both the opportunity to speak and for its sincere hearing of all the testimony coming forth on the issues raised by HJR 32. He noted, however that he's heard reports that some people have been unable to testify because of limited call-in availability; notwithstanding this, the numbers of those who have testified have been overwhelmingly in opposition to HJR 32, and so he hopes that the committee will take that into account.

MR. MACLEOD-BALL offered a brief history: 1998, the marriage amendment passed; 1999, the AkCLU filed a lawsuit representing the AkCLU and 18 individuals; and this resulted in the [Alaska Supreme] Court decision arrived at last October. This decision essentially said that the existing benefits system for public employees is discriminatory. The rationale was fairly simple and fairly straightforward: the State, under the marriage amendment, bars some people from marrying, and the state also offers benefits, through its public employment benefit package, only to married people. Therefore, the discrimination occurs by barring benefits to those who are barred from marrying.

MR. MACLEOD-BALL observed that contrary to some of the previous testimony, the Alaska Supreme Court's justification was under the equal protection clause. The court said, essentially, that it didn't classify same-sex couples as any group that was entitled to special privilege; rather, it said that there was no rational justification for the discrimination of the public employment benefit package. There's been some comment that the court's decision represents a runaway court; however, he pointed out, the decision was unanimous - 5-0 in favor of the decision - and was written by one of the more conservative justices.

MR. MACLEOD-BALL pointed out that even Senator Seekins has acknowledged that were he to have sat on the Alaska Supreme

Court, he probably would have made the same decision because of the language contained in the [Alaska State] Constitution, which is what the court was interpreting. "I don't think this can be characterized as [a] decision of the court that is irrational or activist in any sense of the word," Mr. Macleod-Ball concluded, adding that HJR 32 would counter that court interpretation and, again according to Senator Seekins, its intent is to trump the equal protection clause of the [Alaska State] Constitution.

MR. MACLEOD-BALL said that the AkCLU believes that trumping the equal protection clause is exactly the wrong way to go; HJR 32 would write discrimination into the [Alaska State] Constitution. Instead, he proffered, the state should be strengthening the Alaska State Constitution's equal protection clause in order to reassure minority communities, of today and of tomorrow, that society recognizes and values the diversity achieved by the amalgam of minorities and that the government will not tolerate discrimination even if the majority retains some element of private bias against a particular group. The government needs to stand up, where private individuals will not stand up, in protection of minorities.

MR. MACLEOD-BALL, noting that one of the points made in support of HJR 32 is that [the legislature] should let the people decide, pointed out that "letting the people decide" really depends on what question is posed to the people. Clearly, in advancing the measure, the proponents of HJR 32 would control the very nature of the question that's being asked. Everybody knows, he remarked, that pollsters and surveyors can get the response that they want by asking the question in the right way. It's been stated by many people that the majority ought not to be able to determine the rights that are extended to the minority; furthermore, Vic Fisher - a member of the Alaska Constitutional Convention and one of the authors of the Alaska State Constitution - has stated in an article in the Anchorage Daily News the reasons for preserving the rights of the individual even against the weight of public opinion.

MR. MACLEOD-BALL stated that the AkCLU opposes HJR 32 on several levels, among them that it is poorly phrased and ambiguous in the extreme. He went on to say:

I think we know ... what the intent of the measure is, as measured by public statements - the intent is discriminatory and it is to ban benefits to same-sex couples. But the effect, despite the statements of proponents, I think is less clear; this measure is, in

fact, very ambiguous. While part of a lawyer's job is to argue an issue from both sides, this measure will permit, and encourage, many different interpretations. We cannot tell, at this point, for sure, what this [proposed constitutional] amendment would do.

The proponents say that there is some confusion over the meaning of the original marriage amendment, that the [Alaska Supreme] Court has misconstrued the intent of the 1998 amendment. This measure will put that to shame in the confusion that it will create; we'll be right back in this situation over, and over, and over again as we hash out the real meaning of this measure in the years ahead if this measure is adopted.

We believe that this measure is bad public policy. Immediately upon introduction of this measure, a broad-based coalition has coalesced around this issue in opposition to the measure - Alaska won't discriminate. It's an organization that consists of people from all corners of Alaska and all walks of life. It consists of clergymen, small business owners, corporate and government employees and employers, doctors and healthcare workers, lawyers, social workers, university professors, university administrators and other educators, families and friends of gays and lesbians, and of course many activists. This [resolution] ... is bad for Alaska, and the representation of our broad-based coalition of all these groups, I think, testifies to that.

MR. MACLEOD-BALL added:

All across America, and even in Alaska, the trend is in exactly the opposite direction of what this measure would do: employers are extending benefits to domestic partners more often now than ever. [For example], 50 percent of the "Fortune 500" companies offer domestic partner benefits; several hundred public employers, from all parts of America, not just the "blue" states, offer domestic partner benefits; many Alaskan employers offer domestic partner benefits, including such major employers as "BP" and "Chevron," and Wells Fargo, and "Key Bank," and Alaska Airlines and all the other major airlines that fly into Alaska, and ... [Providence Alaska Medical Center], and the City and Borough of Juneau, and the

university system; there are many major religious denominations that offer domestic partner benefits; and the trend even among insurers is to extend domestic partner benefits, at least as an option, to even small employers - and I would cite the recent addition of BlueCross BlueShield of Montana, I believe it was, [as a company that has] recently added this as an option to its small-group employer benefit package.

We're seeing things like that happening all across the country - the list goes on and on. Testimony was presented in the Senate Finance Committee that this benefit could be extended at essentially no cost to Alaska, and, in fact, even perhaps at savings to the State of Alaska ...; you can save money on Medicaid, you can expand the pool of workers and increase the State's competitive posture with respect to healthcare coverage. The national system is staggering; we've lost 5 million people in coverage over the last five years. Coverages are declining, costs are increasing, nothing is on the horizon to rectify this national crisis, and states are limited in what they can do.

MR. MACLEOD-BALL concluded:

But one thing is certain: each state should be doing whatever it can do to expand healthcare coverage. And when it can be done at no cost or perhaps a public savings, it's a "no brainer." This measure's bad for same-sex couples, it's bad for unmarried Alaskans, it's bad for business, it's bad for public employees, it's bad for public employers, it's bad [for] the State, it restricts access to healthcare, it promotes discrimination and bias, it damages our [Alaska State] Constitution, it limits the equal protection clause; this measure just is not right, and we urge you to stop this measure now. Thank you ....

MR. MACLEOD-BALL, in response to a question, said he is not sure that any other state has adopted a measure just like what is being proposed via HJR 32, though there are a relatively few states that have adopted [or are considering adopting] a "one man one woman" definition of marriage and included language that goes beyond just that definition.

REPRESENTATIVE ANDERSON closed public testimony on HJR 32.

MS. BUCK provided members with a copy of the aforementioned UAF Faculty Senate resolution.

[HJR 32 was held over.]

HB 415 - LIABILITY FOR RECREATIONAL LAND USE

[2:12:36 PM](#)

REPRESENTATIVE ANDERSON announced that the next order of business would be HOUSE BILL NO. 415, "An Act relating to landowners' immunity for allowing use of land for a recreational activity; and providing for an effective date."

[2:13:05 PM](#)

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, sponsor, explained that HB 415 seeks to encourage private landowners to allow free recreational access to their lands by giving them tort immunity from liability except in cases of gross negligence. Under the bill, landowners who do not charge for access to their lands would no longer have a duty to keep the land safe for use, to warn recreational users of unsafe conditions, or to curtail the use of their land for recreational purposes. He offered his belief that current statutes do not specifically pertain to land that is being used free of charge.

REPRESENTATIVE SEATON referred to page 2, line 14, and explained that subsection (d) prohibits claims for adverse possession, prescriptive easement, or similar claims arising from the recreational use of land without charge; this provision should address concerns by landowners that giving someone free access to their lands for recreational use will result in a prescriptive easement. He offered his understanding that members' packets include various letters of support for HB 415, including letters from the Alaska State Chamber of Commerce (ASCC), the Kenai Peninsula Borough, the City of Homer, and many others who believe that [passage of] HB 415 would be advantageous for promoting recreation in their areas.

REPRESENTATIVE GARA said he would like to provide for a narrower title by adding in the things that the bill provides for such as the preclusion of adverse possession or prescriptive easement claims by private persons, and that there is no liability if the land is being used without charge unless the conduct [by the landowner] is grossly negligent, reckless, or intentional.

REPRESENTATIVE SEATON said he would not oppose such a change to the title should the committee desire it.

[2:19:08 PM](#)

LINDSAY WINKLER, Programs Management, Homer Soil & Water Conservation District (SWCD), relayed that members' packets include a letter of support from the Homer SWCD, and that she will submit her written testimony to the committee. Of particular interest is that HB 415 specifically states the recreational use provided for in the bill may not form the basis of prescriptive easement claim. She offered her understanding that a recent Washington Post article indicates that in 2005, more money was spent on tort liability than on research and development efforts. With the increasing need for more energy resources and with Alaska showing leadership in this direction, HB 415 is one step the state can take towards changing this statistic around; ultimately, HB 415 provides landowners wanting to provide access clear and comfortable guidelines for their role in such an allowance and what their liability is. The Homer SWCD is in strong support of HB 415 because property owners are not comfortable with the protections offered by current statutes.

[2:21:03 PM](#)

ANNE MARIE HOLEN, Special Projects Coordinator, Administration Department, City of Homer, relayed that members should have a copy of City of Homer Resolution 6-30 expressing strong support of HB 415. Outdoor recreation is an important part of Homer's identity and local economy. Most Homer area residents support trail development, but some landowners who would be interested in establishing public trails through their property are understandably nervous about possible liability. House Bill 415 addresses these concerns in a straightforward manner, just as many other states have done, and clears up ambiguity in existing state statutes - a worthwhile goal in itself. From the City of Homer's perspective, she relayed, HB 415 provides a good deal for everyone involved. It is the City of Homer's hope that HB 415 will be reported out of committee quickly for a vote on the House floor. She thanked the committee, and thanked the sponsor for introducing the bill.

[2:22:30 PM](#)

BRUCE HESS relayed that he is a founding member of the Coalition of Homer Open Space and Trails (CoHost), and offered his belief

that there is absolutely no controversy on this issue; everyone wants to promote recreational activities in Alaska. House Bill 415 is needed, he remarked, because the ambiguity of current statutes stifles potential recreational activity on private property. Landowners must have clarity before they feel comfortable allowing recreational activity to occur on their land. In conclusion, he asked the committee to move the bill forward, adding that it will benefit all Alaskans.

[2:23:24 PM](#)

DAVID BRANN, Kachemak Nordic Ski Club, noted that he, too, is a founding member of the Coalition of Homer Open Space and Trails (CoHost), and that he volunteers construction and maintenance services on trails on "the peninsula and in Alaska" and so has had to deal with private property owners regarding trails and recreational use on their land. House Bill 415 will be a major step forward with regard to trail development on private lands. He urged support of what he termed "win-win-win" legislation: it is a win for private landowners because they will be protected; it is a win for recreational users because more landowners will be willing to allow access to their properties for recreational use; and it is win for the state because it won't cost the state anything. He said HB 415 is especially important with regard to opening up lands for recreational use near urban and suburban areas. He thanked the committee for its support and for moving the bill forward.

[2:25:21 PM](#)

WAYNE STEVENS, President, Alaska State Chamber of Commerce (ASCC), mentioned that the ASCC has long been a supporter of tort reform. He opined that HB 415 will encourage recreational use of private lands by protecting landowners who allow free access to their land. Private landowners often play a pivotal role in accessing Alaska's outdoors through leasing or granting permission to use their private property; this role helps small businesses grow while providing recreational access for Alaska's burgeoning visitor and adventure activities. Without legal protections, such activities may be limited or threatened altogether. He relayed that the ASCC encourages passage of HB 415.

REPRESENTATIVE COGHILL noted that although the bill states that it won't apply in situations involving intentional, reckless, or grossly negligent conduct on the part of the landowner, the bill also states that a landowner won't have a duty to warn persons

of dangerous conditions. At what point would not warning someone of a dangerous condition be considered intentional, reckless, or grossly negligent conduct?

REPRESENTATIVE ANDERSON offered a hypothetical example in which a deteriorated well lies on the path that recreational users traverse. Would a landowner be required to warn recreational users that that well exists?

REPRESENTATIVE SEATON indicated that a Legislative Legal and Research Services memorandum dated March 31, 2006, attempts to address that issue, and offered his understanding that "malicious failure to warn" could be construed as "grossly negligent". Therefore, he surmised, in the aforementioned example, it would be up to the courts to decide whether not giving warning of the well would constitute gross negligence.

2:30:18 PM

REPRESENTATIVE GARA asked Representative Seaton whether he would be amenable to having the bill say that there is no duty to warn unless the failure to do so is grossly negligent, reckless, or [constitutes] intentional misconduct.

REPRESENTATIVE SEATON offered his understanding that that is what the bill provides for already and thus the court would find that "those cases" constitute gross negligence.

REPRESENTATIVE GARA said he thinks so as well, but he is wondering whether they should perhaps add to page 1, line 12, the words, "except as provided by subsection (b),". He proffered that this would clarify that except in instances involving gross negligence, there would be no duty to warn. [Later Representative Gara suggested that this change occur to page 1, line 6.]

REPRESENTATIVE SEATON offered his belief that the bill already contains that concept, adding that he doesn't have a problem with that suggested change.

REPRESENTATIVE ANDERSON labeled that suggestion Conceptual Amendment 1.

REPRESENTATIVE COGHILL, in response to a question, said his concern is that he wouldn't want someone he lets go hunting or motorcycle riding on his property to sue him because of an

injury sustained due to a failure to pay attention to the terrain.

2:33:27 PM

REPRESENTATIVE ANDERSON surmised that if a landowner's children set traps on the property, there should be a duty to warn.

REPRESENTATIVE COGHILL said he's seen some mean-spirited people do things on their property to discourage trespassing, and that he would view running wire across a trail, for example, as criminal behavior. He said he'd thought that the immunity provided by the bill addressed his concern until he reviewed subsection (b) further.

REPRESENTATIVE SEATON offered his understanding that negligence is the current standard, and that the bill would be changing that standard to intentional, reckless, or gross negligence conduct. He directed members' attention to page 3 of the aforementioned memorandum, and noted that it says in part:

On the other hand, it is also plausible that the court would recognize the legislative intent of HB 415 to protect landowners and disregard the doctrine [of attractive nuisance] entirely. I expect that the course chosen by a court would be fact specific depending on the age of the child, the child's ability to perceive the risk, and the nature of the risk.

REPRESENTATIVE SEATON said that he thinks that "this issue" is covered in that the bill specifies that intentional, reckless, or grossly negligent conduct is the standard. Adoption of this legislation will remove the problem that most landowners allowing recreational use of their land face.

REPRESENTATIVE COGHILL acknowledged the point that the standard is being raised via HB 415.

REPRESENTATIVE GARA said he does not see the harm in adding, on page 1, line 6 [earlier in the meeting stated as line 12], after, "(a)" the words, "except as provided by subsection (b),".

REPRESENTATIVE COGHILL posited that doing so would draw attention to subsection (b), but acknowledged that even without that change one is automatically drawn to it.

REPRESENTATIVE GARA said he thinks that the courts would interpret it the same way, but the problem is that "negligence" is usually a separate doctrine from the doctrines listed on page 1 of the bill; therefore, he is not 100 percent sure that the courts would take the new doctrine of gross negligence and apply it to those items listed on page 1.

REPRESENTATIVE COGHILL surmised, then, that the proposed change would be saying that the legislature wants the higher standard of gross negligence to apply in all situations.

REPRESENTATIVE GARA concurred, adding that although he thinks the sponsor, members, and Legislative Legal and Research Services are right in how the language will be interpreted, he would be more comfortable if the language he is proposing were added.

REPRESENTATIVE SEATON noted that 38 other states have used the same language as is currently in the bill, and that this language is model language.

REPRESENTATIVE COGHILL suggested that perhaps the concern could be addressed via a title amendment.

REPRESENTATIVE GARA sought clarification that it is everyone's intention that the proposed standard of intentional, reckless, or grossly negligent conduct will also apply to conduct listed in subsection (a).

REPRESENTATIVE COGHILL agreed with that summation.

[2:41:26 PM](#)

REPRESENTATIVE GARA withdrew Conceptual Amendment 1.

REPRESENTATIVE GARA made a motion to adopt Amendment 2, to tighten the title such that the concepts discussed are included in the title; Amendment 2 read [original punctuation provided]:

After "use of land" add "without charge"

After "activity;" add "retaining liability where landowner conduct involves gross negligence, recklessness or intentional misconduct; addressing claims of adverse possession and prescriptive easements, or similar claims by private persons or entities;"

2:42:52 PM

REPRESENTATIVE ANDERSON objected for the purpose of discussion.

REPRESENTATIVE SEATON asked Representative Gara whether he meant to say, "limiting claims" instead of, "addressing claims".

REPRESENTATIVE GARA acknowledged that the drafters usually use the term, "relating to", and so perhaps Amendment 2 ought to use that term as well.

REPRESENTATIVE SEATON suggested, then, that Amendment 2 be conceptual.

REPRESENTATIVE GARA made a motion to amend Conceptual Amendment 2, to replace, "addressing claims" with, "relating to claims". There being no objection, Conceptual Amendment 2 was amended.

REPRESENTATIVE ANDERSON removed his objection and asked whether there were any further objections to Conceptual Amendment 2, as amended. There being none, Conceptual Amendment 2, as amended, was adopted.

2:44:36 PM

REPRESENTATIVE GARA moved to report HB 415, as amended, out of committee with individual recommendations [and the accompanying fiscal notes]. There being no objection, CSHB 415(JUD) was reported from the House Judiciary Standing Committee.

HB 413 - BURNING CAPABILITY OF CIGARETTES

2:44:48 PM

REPRESENTATIVE ANDERSON announced that the next order of business would be HOUSE BILL NO. 413, "An Act relating to the burning capability of cigarettes being sold, offered for sale, or possessed for sale; and providing for an effective date." [Before the committee was CSHB 413(STA).]

2:45:06 PM

REPRESENTATIVE REGGIE JOULE, Alaska State Legislature, sponsor, explained that HB 413 relates to slowing/snubbing the burn of cigarettes. He informed the committee that New York, California, Washington, Vermont, and Massachusetts have passed

laws to require that cigarettes be packed differently and utilize rolling paper with what he referred to as "speed bumps." These speed bumps would cause the cigarette, when not actively being smoked, to extinguish. Therefore, this would save lives and avoid property damage.

REPRESENTATIVE JOULE relayed that the college intern in his office, Mikayla Saito, has conducted research which indicates that self-snubbing cigarettes were developed in 1932. For whatever reason, the federal government has failed to utilize this technology, and therefore individual states are taking action. Additionally, in 2003, the entire country of Canada adopted the requirements regarding the burning capability of cigarettes. Representative Joule emphasized that HB 413 doesn't change the composition of the cigarette or add to the cost of its production. In conclusion, Representative Joule urged the passage of HB 413.

[2:48:25 PM](#)

WARREN CUMMINGS, President, Alaska Fire Chiefs Association (AFCA); Fire Chief, City of Fairbanks, provided the following testimony:

The Alaska Fire Chiefs Association, the largest membership of fire service managers in Alaska, is dedicated to serving the needs and issues that face Alaska's fire service. We would like to inform you that [the AFCA] ... strongly supports the Fire Safe Cigarette Act - [HB 413] - and encourage your yes vote when this legislation comes before you on this Committee and the House floor. [House Bill 413] will prohibit the sale, manufacture, or distribution of cigarettes in Alaska that do not meet fire safe standards established by the American Society of Testing and Materials (ASTM).

Careless smoking is the leading cause of fire deaths in Alaska. From 1995-2004, careless smoking, as the fire cause, resulted in 27.6 percent of all fire deaths in Alaska. This type of fire killed 45 people in Alaska during the past 10 years. These costs are simply too great. Fortunately, an effective solution to this problem lies within your reach. California, New York and Vermont have already passed similar legislation to protect their residents. We hope that

you will do your part to accomplish the same in Alaska.

On behalf of the 144 members of the Alaska Fire Chiefs Association, we thank you for considering our support, and we hope that you will vote yes on HB 413 - a life-saving piece of legislation.

2:50:45 PM

CAROL REED, Alaska Fire Standards Council (AFSC), provided the following testimony:

The Alaska Fire Standards Council represents the public, industry, and the fire service in matters of fire training and safety standards. The members represent all geographic areas of the state of Alaska. The [AFSC] ... unanimously supports HB 413. In our professional experience we have seen all too many fires caused by careless ... use of cigarettes, many resulting in fire fatalities. Over the past 10 years, 24 percent of all fatal fires in Alaska were caused by the careless use of cigarettes. This is the leading cause of fire deaths in Alaska. The (indisc.) number of fatal fires would have been avoided with the reduced burning capability cigarettes, as noted in HB 413. We ask you to take a significant step for ... fire and life safety by passing this important bill.

2:52:46 PM

GARY POWELL, Director State Fire Marshal, Central Office, Division of Fire Prevention, Department of Public Safety (DPS), began by relaying the department's support of HB 413. He echoed earlier testimony regarding the problem of fires being started from careless cigarette [smokers]. [This legislation provides] the means to address that problem. He offered his understanding that 24-26 percent of Alaska's fire fatalities are caused by cigarettes. However, often those who die in the fire are not smokers themselves. Mr. Powell acknowledged that this matter could be addressed through regulation of the items that are ignited, but he opined that it would be an overwhelming amount of regulation. Reducing the burning capability of cigarettes will result in far fewer fires [being caused by cigarettes]. Mr. Powell surmised that there are not too many valid arguments in opposition to this.

2:55:39 PM

RUSS HAVEN, Legislative Counsel, New York Public Interest Research Group (NYPIRG), highlighted that the NYPIRG took the lead in lobbying for [a similar] New York state statute and closely monitored and participated in the almost three-and-a-half-year regulatory process to achieve what's been similarly proposed via HB 413. The standard in HB 413 is the same as that of New York, Vermont, California, and Canada. The change required under this proposal is inexpensive, will go practically unnoticed by the consumer, and will have no impact on tobacco sales in terms of the tax revenues. The preliminary data regarding fire deaths from cigarettes indicates that there has been a 48 percent drop in cigarette fire deaths over previous years. More importantly, as smokers are driven inside during the winter months, one would observe more fires, but that wasn't the case after New York's cigarette fire safety law was enacted.

MR. HAVEN clarified that the technology consists of using a different wrapping paper that has slightly thicker bands around the cigarette barrel that cause an unattended cigarette reaching this band to stop the burning. The aforementioned makes tremendous sense, especially given that cigarettes are the leading cause of fire deaths across the nation. Mr. Haven encouraged the legislature to pass HB 413. He then pointed out that committee packets should include a fact sheet that provides answers to some of the basic questions about "reduced ignition propensity" laws and regulations.

MR. HAVEN characterized the reduced ignition propensity laws and regulations as a win-win situation. And because Congress has been far too close to the tobacco industry, he said he didn't expect anything positive from Congress. Therefore, the hope is that as more states pass these laws, the industry will be encouraged to produce fire safe cigarettes for the entire country. Mr. Haven opined that although these aren't fireproof cigarettes, they greatly reduce the risk of fire and will likely help in the reduction of [all types] of fires. He urged the committee to visit the fire safe cigarettes web site, which includes a video of a fire marshal comparing a standard incendiary cigarette and a fire safe compliant cigarette.

REPRESENTATIVE KOTT inquired as to how long New York has had the fire safe compliant cigarettes.

MR. HAVEN informed the committee that the regulation went into effect June 28, 2004. However, he noted that many of the

tobacco companies shifted production to these cigarettes earlier than the effective date. He further noted that retailers were allowed to sell off any old cigarettes with a tax stamp prior to the effective date. Mr. Haven characterized it as a seamless transition for wholesalers, retailers, and manufacturers. In further response to Representative Kott, Mr. Haven specified that a February 2005 Harvard School of Public Health study found that the fire safe cigarettes aren't any more harmful to the smoker than a regular cigarette. He noted that the fact sheet attached to his testimony specifies the web site for the document.

[3:04:22 PM](#)

REPRESENTATIVE JOULE said that he would provide that information to the committee as well as other information that has been mentioned.

ANDREW McGUIRE, National Fire Protection Association (NFPA), opined that [fire-safe cigarettes] are an idea whose time has come. He informed the committee that legislation similar to HB 413 is likely to become law in Illinois in the next few weeks. Furthermore, similar legislation might pass in Maryland. He noted that nine other states, including Alaska, are considering [similar legislation]. He offered his belief that if a few more states pass similar legislation, cigarette companies will have no choice but to make fire-safe cigarettes for the entire nation.

MR. McGUIRE relayed that fairly recently, Phillip Morris, the largest cigarette manufacturer in the U.S., stopped opposing state [fire safe cigarette] legislation; he therefore interpreted that to mean that the company will start making fire safe cigarettes for all states. However, other cigarette makers are continuing to oppose such legislation. In conclusion, he urged Alaska to join other states in passing fire safe cigarette legislation.

REPRESENTATIVE ANDERSON indicated that CSHB 413(STA) would be held over.

HB 347 - MOTOR VEHICLE INSURANCE & NOTICE

[3:09:14 PM](#)

REPRESENTATIVE ANDERSON announced that the final order of business would be HOUSE BILL NO. 347, "An Act relating to

mandatory motor vehicle insurance, license suspensions, and notices relating to motor vehicles and driver's licenses." [Before the committee was CSHB 347(STA).]

REPRESENTATIVE GARA, speaking as one of the prime sponsors of HB 347, relayed that HB 347 attempts to correct an unintended result in which people are charged with not having insurance when, in fact, they do have insurance.

[3:10:55 PM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), began by relayed that the DMV supports HB 347. He highlighted that the division is involved with the legislation due to Section 3. As the law reads today, the DMV is directed to notify the customer when there are issues pertaining to mandatory insurance and the potential suspension that follows if there is no insurance. The division, he explained, is required to notify the customer at the address provided to DMV. However, since people obtain their drivers' license once every five years, they often don't notify the DMV of address changes.

MR. BANNOCK explained that furthermore, the police report which is causing the action to be generated has the individual's current address, but by law the DMV has to send the notification to [the address on file with the DMV]. This legislation allows the DMV to provide better [service]. In response to Representative Anderson, Mr. Bannock specified that the law requires an individual to inform the DMV of his/her new address, but doesn't require that the individual obtain a new drivers' license. Therefore, it's possible that a drivers' license would specify one address while the DMV's records would specify the correct address.

REPRESENTATIVE GARA asked if Mr. Bannock is aware of individuals being charged with the crime of not having insurance when they really did.

MR. BANNOCK replied yes.

[3:13:35 PM](#)

TOM McGRATH opined that in Alaska, about 50 percent of drivers don't have [automobile] insurance, and in Anchorage, when a police officer stops a motorist, the officer may or may not ask for proof of insurance. However, the individual who is hit by

an uninsured motorist uses his/her insurance to pay for the repair of his/her vehicle, which drives up his/her costs. The fine proposed in Section 1 is not to exceed \$300 for an infraction, he noted, much less than the cost of insurance.

MR. McGRATH characterized the aforementioned as providing an incentive for people not to have insurance. Therefore, he suggested that CSHB 347(STA) be modified such that a reference to AS 28.22.041, AS 28.22.019, and AS 28.22.091 be added to Section 4. With the aforementioned change, if an individual is caught without a drivers' license, insurance, or proper registration, the vehicle is removed from the street until the individual rectifies the situation. He further suggested that the fine under Section 1 should be changed to a mandatory \$1,000 fine. Under AS 28.01.015, he recommended that the "may" be changed to "shall" so that the municipality must impound the vehicle when the individual doesn't have a drivers' license, proper registration, or insurance.

REPRESENTATIVE GARA explained that the fine proposed in Section 1 only pertains to whether the individual informed the DMV of an address change, not whether the individual has insurance.

MR. McGRATH suggested that there is probably some place in Title 28 where a larger fine can be implemented for those individuals driving without insurance.

[3:19:47 PM](#)

REPRESENTATIVE GARA said that Mr. McGrath's comments and concerns warrant further consideration. Representative Gara emphasized that he shares Mr. McGrath's concerns with regard to those driving without insurance, and thus the original intent was to try to develop a way to enforce the mandatory insurance law. However, he couldn't find a way to do that without requiring the department to invest in new computer systems and additional staff, which would necessitate a large fiscal note.

[CSHB 347(STA) was held over.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:20 p.m.