

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 22, 2005

1:16 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Gabrielle LeDoux
Representative Bob Lynn
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

Representative Pete Kott

COMMITTEE CALENDAR

HOUSE BILL NO. 120

"An Act relating to safety devices and sharp instruments for the prevention of the spread of bloodborne pathogens in health care employees; and providing for an effective date."

- MOVED HB 120 OUT OF COMMITTEE

HOUSE BILL NO. 190

"An Act relating to the purchase of alcoholic beverages and to requiring identification to buy alcoholic beverages; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole."

- HEARD AND HELD

HOUSE BILL NO. 180

"An Act relating to a special deposit for workers' compensation and employers' liability insurers; relating to assigned risk pools; relating to workers' compensation insurers; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development, assigning certain Alaska Workers' Compensation Board functions to the division and the department, and

authorizing the board to delegate administrative and enforcement duties to the division; establishing a Workers' Compensation Appeals Commission; providing for workers' compensation hearing officers in workers' compensation proceedings; relating to workers' compensation medical benefits and to charges for and payment of fees for the medical benefits; relating to agreements that discharge workers' compensation liability; relating to workers' compensation awards; relating to reemployment benefits and job dislocation benefits; relating to coordination of workers' compensation and certain disability benefits; relating to division of workers' compensation records; relating to release of treatment records; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; relating to attorney fees; providing for the department to enter into contracts with nonprofit organizations to provide information services and legal representation to injured employees; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to fraudulent acts or false or misleading statements in workers' compensation and penalties for the acts or statements; providing for members of a limited liability company to be included as an employee for purposes of workers' compensation; establishing a workers' compensation benefits guaranty fund; relating to the second injury fund; making conforming amendments; providing for a study and report by the medical services review committee; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 120

SHORT TITLE: HEALTH CARE EMPLOYEE PROTECTION

SPONSOR(S): REPRESENTATIVE(S) WILSON

02/02/05	(H)	READ THE FIRST TIME - REFERRALS
02/02/05	(H)	HES, L&C
02/24/05	(H)	HES AT 3:00 PM CAPITOL 106
02/24/05	(H)	Moved Out of Committee
02/24/05	(H)	MINUTE(HES)
02/25/05	(H)	HES RPT 4DP 1NR
02/25/05	(H)	DP: CISSNA, GARDNER, SEATON, WILSON;

02/25/05 (H) NR: KOHRING
03/22/05 (H) L&C AT 1:00 PM CAPITOL 17

BILL: HB 190

SHORT TITLE: REQUIRED ID FOR PURCHASING ALCOHOL
SPONSOR(S): REPRESENTATIVE(S) CRAWFORD

03/01/05 (H) READ THE FIRST TIME - REFERRALS
03/01/05 (H) L&C, JUD
03/22/05 (H) L&C AT 1:00 PM CAPITOL 17

BILL: HB 180

SHORT TITLE: WORKERS' COMPENSATION
SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/25/05 (H) READ THE FIRST TIME - REFERRALS
02/25/05 (H) L&C, JUD, FIN
03/09/05 (H) L&C AT 3:15 PM CAPITOL 17
03/09/05 (H) Heard & Held
03/09/05 (H) MINUTE(L&C)
03/16/05 (H) L&C AT 3:15 PM CAPITOL 17
03/16/05 (H) Scheduled But Not Heard
03/21/05 (H) L&C AT 3:15 PM CAPITOL 17
03/21/05 (H) Scheduled But Not Heard
03/22/05 (H) L&C AT 1:00 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE PEGGY WILSON

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 120.

GREY MITCHELL, Director

Division of Labor Standards & Safety
Department of Labor & Workforce Development
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 120.

PAT SENNER, Nurse

Alaska Nurses Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 120.

JAY HARDENBROOK, Staff

to Representative Crawford
Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 190 on behalf of the sponsor, Representative Crawford.

CINDY CASHEN

National Council on Alcoholism and Drug Dependence
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 190, related that the National Council on Alcoholism and Drug Dependence supports the issue embodied in HB 190.

DUANE BANNOCK, Director
Division of Motor Vehicles
Department of Transportation & Public Facilities
Anchorage, Alaska

POSITION STATEMENT: Testified that the division is willing to support the proposal [embodied in HB 190], although it has many questions.

BRENDA MOORE, Community Liaison
Christian Health Associates
(No address provided)

POSITION STATEMENT: Urged the committee to support HB 190.

CHRIS SCHUTTE

Anchorage Downtown Partnership
Anchorage, Alaska

POSITION STATEMENT: Characterized HB 190 as a valuable tool to help inebriants and get them off the streets.

DOUGLAS B. GRIFFIN, Director
Alcoholic Beverage Control Board
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Testified that HB 190 isn't compatible with existing provisions allowing alcohol to be shipped by written order.

MICHAEL J. JENSEN, Attorney at Law
Law Offices of Michael J. Jensen
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 190.

BOB FAVRETTO Business owner;
Board Member, Alaska State Chamber of Commerce
Kenai, Alaska

POSITION STATEMENT: Encouraged the committee to pass HB 180 out of committee.

JOHN DAVID RAGAN
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 180.

MARJORIE LINDER, Rehabilitation Counselor
Anchorage, Alaska

POSITION STATEMENT: Expressed concerns with HB 180.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at [1:16:20 PM](#). Representatives Anderson, Lynn, Rokeberg, Crawford, and Guttenberg were present at the call to order. Representative LeDoux arrived as the meeting was in progress.

HB 120-HEALTH CARE EMPLOYEE PROTECTION

CHAIR ANDERSON announced that the first order of business would be HOUSE BILL NO. 120, "An Act relating to safety devices and sharp instruments for the prevention of the spread of bloodborne pathogens in health care employees; and providing for an effective date."

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, sponsor, announced that this bill basically brings Alaska standards up to the federal standards. The main difference between Alaska's regulations [for bloodborne pathogens] and those of the federal government is that Alaska's regulations didn't include dental offices and other medical offices with less than 25 [employees].

[1:17:46 PM](#)

REPRESENTATIVE WILSON said that there were two reasons for this improvement. She explained that if [these procedures for bloodborne pathogens] weren't already being used, the effects would be disastrous to those already working in these offices. Therefore, this is almost a housekeeping matter. However, the larger issue is that failure to comply with the federal minimum standards jeopardizes the state's eligibility for federal grants.

[1:19:10 PM](#)

CHAIR ANDERSON highlighted that HB 120 already went through the House Health, Education and Social Services Standing Committee and the Department of Labor & Workforce Development recommended its introduction.

REPRESENTATIVE GUTTENBERG asked if there were any statistics regarding people who have been exposed to bloodborne pathogens at dental offices, and if it was greater or less than the exposure rates at regular medical offices.

REPRESENTATIVE WILSON answered that dentists weren't included original because when these regulations were originally implemented a member of the House of Representatives, who happened to be a dentist, feared that including dentists would cost dentists more. Therefore, dentists were exempted.

[1:19:48 PM](#)

REPRESENTATIVE ROKEBERG asked if the language referring to having "not more than 25 employees" exempts dentists.

REPRESENTATIVE WILSON indicated that the aforementioned language was used to exempt dentists.

[1:20:21 PM](#)

REPRESENTATIVE ROKEBERG recalled that there was concern for all health care providers in all small settings, not just dentists.

REPRESENTATIVE WILSON announced that almost all health care providers are already in compliance with [what is proposed in HB 120].

GREY MITCHELL, Director, Division of Labor Standards & Safety, Department of Labor & Workforce Development (DLWD), spoke in support of HB 120. He characterized it as a housekeeping measure. He explained that at the time this law was created, there were no federal standards for bloodborne pathogens. In the year 2000, the federal employee protection law was created and special exemptions were created for small employer groups and dental groups.

[1:22:15 PM](#)

MR. MITCHELL then stated that in the following year, the federal government came out with comprehensive regulations for

bloodborne pathogen standards. However, these two professional exemptions were not included in the new regulations and thus the state was at odds with the federal Occupational Safety and Health Administration (OSHA) program because the state had a less strict interpretation regarding when the protective regulations had to be in place to keep workers safe. He noted that these regulations also protect customers at these facilities.

[1:23:34 PM](#)

MR. MITCHELL turned to the earlier questions regarding the number of incidences and the number of employees. Referring to a list he had that didn't detail employers with less than 25 employees, he guesstimated that 30 percent of these were employers with less than 25 employees. There is a total of 85 businesses that had incidences between October 2003 and September 2004, 12 of which were dental establishments and the other 73 were other health care-related businesses. He then said that the other confusing element is that the state law, AS 18.60.030(6), established when the state was given jurisdiction over occupational safety and health issues required the state to maintain standards as effective as federal standards. Therefore, there is a conflict between statute and federal standards. The legislation simply intends to eliminate the conflict and clarifies the obligation of these health care businesses in protecting their employees and the public from bloodborne pathogens.

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MR. MITCHELL characterized this matter as a common sense issue. He related that the [department's] occupational safety and health industrial hygienist has found that all of the dentists are complying because they don't want to risk exposure.

[1:26:29 PM](#)

REPRESENTATIVE ROKEBERG, referring to AS 18.60.890(G), pointed out that this statute, which came out a couple of years ago, states that a employer who employs 10 or more front-line health care workers shall be required to establish an evaluation committee. He then asked what businesses are to do if they have very small practices and the exemption is eliminated.

MR. MITCHELL answered that right now state law requires that the business review the safety products on the market. If there are

10 employees or less, there has to be one person who is directly involved in reviewing safety products. Regardless of the ratio of employees, 50 percent of the employees that do the review must have direct involvement with patient care or lab work. The intent is to provide a way for the people who are using the products to have a say in evaluating the safety procedures in their clinic or lab.

REPRESENTATIVE ROKEBERG clarified that he is concerned with throwing away the provision. He then asked how the department would enforce this and determine that the business, however small, had an evaluation committee.

MR. MITCHELL answered that this was essentially the case. He noted that the dental community doesn't have much concern with HB 120 because there isn't a lot of technology available for dental facilities to use. There is a lot of common sense in the [existing] statutes, he said.

[1:30:10 PM](#)

MR. MITCHELL said that there are provisions that allow for individual analysis of each practitioner's situation. If, in the mind of the doctor, the use of the equipment would not provide any additional safety margin, then they do not bother purchasing the equipment. The dental community cannot use a lot of the equipment that is on the market so they do not have any consternation about the issue, as long as they comply as best they can and are in compliance with federal law.

PAT SENNER, Nurse, Alaska Nurses Association, announced that she as in support of the bill and that she was involved with the enactment of the original Act. She informed the committee that since the federal act took place in 2001, there has been a 50 percent reduction in needle sticks. She related that the infection of one person can cost the system over a million dollars in long-term care. The safety devices being discussed were originally very expensive, which is why the exemptions were put into place. However, the cost has since decreased then, and should no longer be an issue. She ended by expressing the hope that this bill would pass so that state law can be in compliance with federal law.

[1:33:06 PM](#)

REPRESENTATIVE ROKEBERG asked if the Alaska State Medical Association (ASMA) had taken a position on this or any of the

other parts of the bill concerning sharps and other devices. He surmised that some of the smaller practitioners would be the ones to testify because the larger entities are covered.

CHAIR ANDERSON said that he did not think the packet included anything [from the small practitioners or ASMA]. He suggested that the lack of testimony or endorsement could be the result of the matter not being on "their radar".

REPRESENTATIVE ROKEBERG recalled relating that the Dental Society is amenable to HB 120, although there is no information in the committee packet specifying the aforementioned. He expressed concern about the teeth cleaning devices and asked whether they would qualify as sharps.

CHAIR ANDERSON answered that this will be addressed by Representative Wilson before it goes to the House floor.

REPRESENTATIVE LEDOUX moved to report HB 120 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, it was so ordered.

HB 190-REQUIRED ID FOR PURCHASING ALCOHOL

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 190, "An Act relating to the purchase of alcoholic beverages and to requiring identification to buy alcoholic beverages; requiring driver's licenses and identification cards to be marked if a person is restricted from consuming alcoholic beverages as a result of a conviction or condition of probation or parole."

1:35:57

JAY HARDENBROOK, Staff to Representative Crawford, Alaska State Legislature, explained that HB 190 is a step toward preventing problem drinkers from purchasing alcohol in Alaska. Mr. Hardenbrook informed the committee that Alaska has the highest rate of alcoholism and alcohol-related crimes in the U.S. Although Alaska has some of the strictest penalties for alcohol-related crimes, Alaska continues to have astronomical rates of recidivism. Therefore, it's time for a new approach, and HB 190 moves in that direction. Currently, many people on parole and probation for alcohol-related crimes aren't allowed to purchase alcohol. This legislation would simply place a mark on state-issued identification as a way in which those who sell alcoholic beverages will know whether a person is not allowed to purchase

alcohol. The legislation also requires that bar tenders, wait staff, and clerks in liquor stores check a resident's state identification before selling the individual alcohol.

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REPRESENTATIVE ROKEBERG asked whether any other states have adopted similar legislation.

MR. HARDENBROOK answered that no other state has adopted this specific plan. He informed the committee that other states have created special license plates for those who have [been convicted of] driving while intoxicated (DWI).

REPRESENTATIVE CRAWFORD, speaking as the sponsor of HB 190, related that Oregon is presently hearing legislation almost identical to HB 190.

REPRESENTATIVE ROKEBERG recalled that either the State of Washington or Oregon put in place a "zebra [license] plate" for the same reason as this, but it was withdrawn from the law because of the "negative feel" it created.

[1:38:44 PM](#)

REPRESENTATIVE CRAWFORD explained that the aforementioned is why HB 190 is directed only toward drunk drinking. He informed the committee that more than 80 percent of the people in Alaska's jails and prisons were convicted of alcohol-related offenses. Therefore, the desire is to prohibit repeat [offenders with alcohol-related offenses] from being able to buy, sell, or consume alcohol. The aforementioned is already in law, but law enforcement hasn't been given the tools to segregate those individuals from the rest of society, which is what this legislation attempts.

REPRESENTATIVE LYNN pointed out that tourists wouldn't have such distinctions on their identification.

MR. HARDENBROOK explained that if an individual has identification specifying that he or she is from another state, the individual wouldn't have to present [identification from Alaska].

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REPRESENTATIVE LYNN surmised then that the legislation would prohibit an individual from entering locations at which alcohol is served.

MR. HARDENBROOK clarified that HB 190 only addresses the purchase of alcohol.

REPRESENTATIVE CRAWFORD interjected that the prohibition of individuals [with alcohol-related offenses] from entering locations where alcohol is served is a law that's already in place.

REPRESENTATIVE ROKEBERG turned attention to Section 3(6), and asked if the language specifying that the license would "be designed to allow the electronic reading and electronic display of the information" means that there will be a new type of license.

MR. HARDENBROOK explained that the aforementioned language was used because of the new electronic driver's licenses. The drafter felt that it would be appropriate to have this be part of the magnetic strip on the back of the driver's license.

REPRESENTATIVE LYNN surmised that this special driver's license would be provided upon issuance of a new driver's license or when an individual is convicted of this particular crime.

MR. HARDENBROOK explained that currently when an individual is convicted of an alcohol-related crime, the license of that individual is revoked. That individual has to have his or her license reissued. Mr. Hardenbrook related that the sponsor is going to work with the chair to develop a mechanism by which the Alaska Court System and the parole board can communicate with the Division of Motor Vehicles (DMV) in order to avoid the lag time that's currently occurring.

[1:42:15 PM](#)

REPRESENTATIVE LEDOUX asked whether an individual convicted of an alcohol-related offense would lose his or her driver's license even if the offense isn't a DWI.

MR. HARDENBROOK replied yes, that's the current situation. This legislation is merely specifying that the new license would have the information specified on the license.

[1:43:16 PM](#)

REPRESENTATIVE LEDOUX asked whether an individual convicted of an alcohol-related offense who has obtained a new license would still be precluded from buying alcohol.

CHAIR ANDERSON posed a hypothetical situation in which an individual who received a DWI 20 years ago receives another in the next couple of months. If that individual were to lose his or her license for 90 days and the license is returned, would the driver's license continue to specify the individual's record.

MR. HARDENBROOK clarified that the special mark would only be in effect during the time the individual is on probation or parole for the alcohol-related crime.

REPRESENTATIVE CRAWFORD clarified that once the individual is not on probation or parole, he or she can obtain another driver's license without the special mark and consume alcohol. The special mark on the driver's license provides the Department of Public Safety (DPS) the ability to identify these individuals from the rest of society.

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REPRESENTATIVE LEDOUX asked whether an individual would lose his or her driver's license for an alcohol-related crime if it didn't involve driving.

REPRESENTATIVE CRAWFORD answered that it depends upon the judge. He informed the committee that for domestic violence, one can lose his or her right to drink.

REPRESENTATIVE LEDOUX inquired as to where DPS actually comes into the picture. She suggested that it's actually the restaurant staff and bar owners [who will identify these individuals].

REPRESENTATIVE CRAWFORD agreed that food and beverage establishments are the first line of defense. However, DPS helps enforce these laws. The partnership [between food and beverage establishments and DPS] that already occurs today would continue. Representative Crawford emphasized the need to do something different to address the fact that Alaska leads the nation in alcohol-related crime.

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REPRESENTATIVE CRAWFORD said, "We can save a lot of lives and make a huge change in what's going on, and that's what I'm asking for you to do." He opined that a difference can be made [with this legislation]. Representative Crawford commented that he is sorry he didn't take more notice of Representative Green's legislation four years ago, and that it took seeing his wife lying on the emergency room table before realizing what a problem this is for everyone.

REPRESENTATIVE ROKEBERG surmised then that a 94-year-old individual in a Title 4 premise would have to be carded each time he or she is served a drink.

MR. HARDENBROOK replied yes.

REPRESENTATIVE ROKEBERG commented that perhaps there should be a cost-benefit analysis of all statutory legislation that is introduced. Representative Rokeberg suggested that probably one of the primary reasons this proposal hasn't been adopted in any other state is because it intrudes on privacy and is an impediment to human interaction.

REPRESENTATIVE CRAWFORD stated that HB 190 has nothing to do with an individual's age; it only addresses those who are under court order.

REPRESENTATIVE ROKEBERG interjected that the only way to know whether an individual is under court order is by carding the individual.

REPRESENTATIVE CRAWFORD agreed, and characterized carding an individual to determine whether he or she is under court order as a small inconvenience.

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REPRESENTATIVE LYNN asked if this legislation applies to repeat offenders. He also inquired as to the point at which the [decision is made] to not allow the individual to [purchase] alcohol.

REPRESENTATIVE CRAWFORD answered that judges can already decide that an individual can't have that privilege again.

CINDY CASHEN, National Council on Alcoholism and Drug Dependence, thanked the sponsor for the legislation because it

addresses a problem that has existed for many years. It's common knowledge that some people are classified as "not to enter or consume alcohol (NEOC)". In the old days, bars and liquor stores would keep a list of NOECs and would be able to check because they knew everyone in town; and law enforcement could keep a check on those individuals as well. However, the state is just too large and [law enforcement, bar staff, and liquor store staff] don't know everyone. Furthermore, the probation dates with the court system have become more complicated and are ever-changing. All of the aforementioned has resulted in many people who abuse their probation. When such individuals are caught, the punishment is merely a slap on the wrist. Ms. Cashen informed the committee that often there are offenders who have repeatedly violated their probation, which is frustrating. Ms. Cashen opined that by bringing this problem to light, folks can work toward a solution that's palatable to everyone. In conclusion, Ms. Cashen related that the National Council on Alcoholism and Drug Dependence supports this issue.

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REPRESENTATIVE ROKEBERG recalled that Ms. Cashen had brought to his attention that judges in the 1st judicial district aren't applying the DUI law evenhandedly but rather are using an old court of appeals' case that allowed offenders to get off with lesser fines. He inquired as to Ms. Cashen's thoughts on the aforementioned.

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MS. CASHEN characterized HB 190 and [legislation addressing what Representative Rokeberg mentioned] as similar. She indicated agreement with Representative Rokeberg's comments regarding the [1st judicial district]. The issue at hand in HB 190 has been going on for many years. Ms. Cashen related that the sentencing for violating probation often results in more time being tacked onto that already assigned. Occasionally, repeat offenders on probation are put in jail. The aforementioned isn't done often, she indicated, because the Department of Corrections doesn't like [housing that many drunk driving violators]. She clarified that the aforementioned is drawn from her own observations.

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Transportation & Public Facilities (DOT&PF), stated that the division is willing to support the proposal [embodied in HB 190], although it has many questions. He

related his understanding that in the next few days there will be a good grasp of the number of individuals that this legislation would impact. Still, DMV is poised to produce an [identifying] mark on one of the three types of identification it produces. However, the concern is regarding whether the division will have accurate information as to who is impacted by this proposed change. There is also concern with regard to how the DMV will be able to obtain the information. Mr. Bannock informed the committee that DMV will be attaching a fiscal note to HB 190.

[2:00:37 PM](#)

REPRESENTATIVE CRAWFORD announced his intent to pass the cost of issuing a new license on to the perpetrator. He further announced that he would continue to work with the DMV in order to address its concerns.

MR. BANNOCK informed the committee that it should be proud to know that Alaska's new digital license is second to none in the nation.

BRENDA MOORE, Community Liaison, Christian Health Associates, explained that she became aware of repeat offenders when she worked for an outreach program. She said it was amazing how many offenders were repeat offenders who hadn't received any treatment or education. The aforementioned became very real when the daughter of one of the peer counselors was struck and killed by a drunk driver who had a number of DUIs and was driving with a revoked license. If HB 190 had been in place at the time, Ms. Moore opined that it might have "detoured" him because the driver wouldn't have had a license to present and if he managed to have such, it [would've been marked] such that he wouldn't have been able to purchase liquor. Ms. Moore concluded by asked the committee to support HB 190.

CHRIS SCHUTTE, Anchorage Downtown Partnership, informed the committee that the aforementioned organization represents downtown businesses, property owners, and residents in the area. Mr. Schutte said that one of the largest issues facing downtown businesses and residents is the issue of public inebriants. Many of the members of the Anchorage Downtown Partnership view HB 190 as a valuable tool to help these inebriants and get them off the streets. Those chronic inebriants frequent the same establishments and are served until they are incapacitated and then they return to the streets. The Anchorage Downtown Partnership, he related, hopes that HB 190 would help curb the

aforementioned. In response to Chair Anderson, Mr. Schutte confirmed that there would be a letter from the Anchorage Downtown Partnership.

2:08:10 PM

DOUGLAS B. GRIFFIN, Director, Alcoholic Beverage Control Board (ABC), Department of Public Safety, said he didn't believe that HB 190 is compatible with existing provisions allowing alcohol to be shipped by written order. Those who ship alcohol to damp communities have to have licenses on file, although no face-to-face inspection occurs. The aforementioned can be addressed, he said. Mr. Griffin informed the committee that currently the ABC Board maintains a list of those package stores who want to do business via written order because these stores need to be kept well informed regarding changes to the local option list. He noted that the ABC Board also provides liquor stores listings of individuals who are convicted bootleggers. Therefore, there is already a mechanism by which those who purchase by written order are screened and thus the legislation would need to address that. Mr. Griffin opined that there will be some operational issues with regard to requesting identification each time an alcoholic beverage is sold, but he viewed the aforementioned as the legislature's policy call.

2:12:00 PM

REPRESENTATIVE ROKEBERG inquired as to the ramifications if there was a breach of [AS 04.16.160 and AS 04.16.167] in Section 1 of the legislation. He inquired as to the sanctions under Title 4.

MR. GRIFFIN answered that he assumed that it would be similar to the current violations imposed on wait staff who [sell alcoholic beverages] without properly checking identification or recognizing the identifying mark on the identification. The aforementioned could result in a misdemeanor and criminal prosecution. Furthermore, there could also be ramifications for the licensee as well.

2:13:58 PM

REPRESENTATIVE ROKEBERG asked whether the licensee's Title 4 license would ultimately be held in jeopardy.

MR. GRIFFIN confirmed that it could lead to that. He characterized it as a progressive thing in most cases. Usually,

it's a situation in which the licensee knows that there's a problem and has been notified of such, but hasn't taken any corrective actions. The [situation], he said, certainly could lead to the revocation of the license.

REPRESENTATIVE ROKEBERG asked if Mr. Griffin was aware of any private causes of action against a licensee for breach of Title 4 provisions.

MR. GRIFFIN said that he wasn't aware of any such causes of action.

REPRESENTATIVE CRAWFORD specified that it wasn't his intention to broaden the law further than what it is already when someone sells to an underage individual. Furthermore, the law only applies to those individuals under court order.

CHAIR ANDERSON announced that HB 190 would be held over.

HB 180-WORKERS' COMPENSATION

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 180, "An Act relating to a special deposit for workers' compensation and employers' liability insurers; relating to assigned risk pools; relating to workers' compensation insurers; stating the intent of the legislature, and setting out limitations, concerning the interpretation, construction, and implementation of workers' compensation laws; relating to the Alaska Workers' Compensation Board; establishing a division of workers' compensation within the Department of Labor and Workforce Development, assigning certain Alaska Workers' Compensation Board functions to the division and the department, and authorizing the board to delegate administrative and enforcement duties to the division; establishing a Workers' Compensation Appeals Commission; providing for workers' compensation hearing officers in workers' compensation proceedings; relating to workers' compensation medical benefits and to charges for and payment of fees for the medical benefits; relating to agreements that discharge workers' compensation liability; relating to workers' compensation awards; relating to reemployment benefits and job dislocation benefits; relating to coordination of workers' compensation and certain disability benefits; relating to division of workers' compensation records; relating to release of treatment records; relating to an employer's failure to insure and keep insured or provide security; providing for appeals from compensation orders; relating to workers' compensation proceedings; providing for

supreme court jurisdiction of appeals from the Workers' Compensation Appeals Commission; providing for a maximum amount for the cost-of-living adjustment for workers' compensation benefits; relating to attorney fees; providing for the department to enter into contracts with nonprofit organizations to provide information services and legal representation to injured employees; providing for administrative penalties for employers uninsured or without adequate security for workers' compensation; relating to fraudulent acts or false or misleading statements in workers' compensation and penalties for the acts or statements; providing for members of a limited liability company to be included as an employee for purposes of workers' compensation; establishing a workers' compensation benefits guaranty fund; relating to the second injury fund; making conforming amendments; providing for a study and report by the medical services review committee; and providing for an effective date."

[2:16:19 PM](#)

MICHAEL J. JENSEN, Attorney at Law, Law Offices of Michael J. Jensen, informed the committee that [the committee packet should include] a letter dated March 16, 2005, from himself and Joseph Kalamarides, Chancy Croft, Steve Constantino, and William Soule. He explained that he and the aforementioned attorneys exclusively represent injured workers and workers' compensation cases. Mr. Jensen said that he would limit his comments to the creation of the commission and the concern the governor has raised regarding premium increases. The statistics used to justify HB 180 specify the following: overall benefits have only increased 7 percent; the number of injuries have decreased; the vocational rehabilitation costs have decreased; time loss claims have decreased; indemnity benefits have decreased; legal expenses of the plaintiff's lawyer have decreased; defense legal expenses have increased; and medical benefits have increased 8 percent. Therefore, Mr. Jensen opined that it's difficult to understand how employers can face premium increases of 400 percent. He offered an analogy in which natural gas prices increase 7 percent, but the electric user has a rate increase of 400 percent. The natural inclination is to ask the regulator of the utility why the electric users would be charged 400 percent [more] when the gas prices have only risen by 7 percent. However, when dealing with injured workers, the solution seems to be to go after the workers and the physicians.

MR. JENSEN opined that HB 180 doesn't address the legitimate concerns of Alaskan employers. Although Alaskan employers are

experiencing a dramatic increase in premiums, it's not explained by the relatively modest increase in benefit costs. In fact, the commission created by HB 180 will increase the cost to workers and physicians in litigating claims. This seems to create a court and judges without calling them such. "For the first time in Alaska's history, judges will be near political appointees not subject to the standards of judicial conduct, preemption would not be allowed, the commission would not be subject to the present standards of judicial review; it will decide cases de novo and the judges will never be evaluated for their ability or fairness." He highlighted that the power of the board to determine credibility of medical reports will be taken away by this Act. "The board's determination of credibility will be exclusively limited to testimony presented by a witness at hearing," which will increase the cost of litigation to employers and employees alike, he pointed out. Mr. Jensen further pointed out that [AS 23.30.128] clarifies that the commission will review de novo all prior board decisions; permit parties to present new or additional evidence; permit easier granting of stays without surety bonds; and ensure that all adverse board decisions will be appealed by the party who lost at the board level. He opined that all of the aforementioned will greatly increase litigation costs as well as medical costs because physicians will now have to wait one to two years for the litigation to be concluded at the commission level. He noted that every party that lost before the board will be compelled to appeal for a chance "at two bites of the apple." "We simply don't see how the governor's proposal to create this commission will save ... costs ..., time, and will make the system fairer for injured workers and employers alike," he opined.

REPRESENTATIVE ROKEBERG suggested that Mr. Jensen should be invited back at another time because he represents four other counselors who represent the plaintiff's bar. Representative Rokeberg said he would like to hear suggestions regarding a solution from Mr. Jensen. Representative Rokeberg expressed concern that Mr. Jensen admits that there's a 400 percent premium increase, but denies what's causing it.

MR. JENSEN said that he and his colleagues have addressed what they believe would be better solutions, and certainly much cheaper and speedier solutions. He said that he and his colleagues have some suggestions regarding the medical issues. In regard to the premium increases, the statistics from the Division of Workers' Compensation show that the cost of benefits have only increased by 7 percent. Therefore, there seems to be

a disconnect between what employers are being charged in premiums and what those premiums are purchasing, he opined. No one is addressing the aforementioned concern, he highlighted. Mr. Jensen claimed that HB 180 won't save employers 400 percent in premium increases.

BOB FAVRETTO, Business owner; Board Member, Alaska State Chamber of Commerce, informed the committee that he's the twice past president of the Kenai Chamber of Commerce. Mr. Favretto relayed that a hotel/restaurant/property management business in the area had workers' compensation premiums in the amount of about \$16,000 in 2000, which increased to about \$36,000 in 2004. Those premiums are estimated to increase another 20-30 percent in 2005. He then turned to attention to a local machine shop that employs approximately 36 individuals and had \$40,000 in [workers' compensation] premiums in 2001, which will increase to in excess of \$100,000 this year. Mr. Favretto highlighted that in 2001 the McDonald's franchises on the Kenai Peninsula employed approximately 130 employees of which he estimated 65 percent to be part-time employees. In 2001, the workers' compensation premium was \$24,000 and in 2005 the premiums are projected to be in excess of \$133,000. Mr. Favretto then turned to a local fish processing plant that had 233 employees in the year 2000 of which 90-95 percent are part-time employees. In 2000, the local fish processing plant's workers' compensation premiums were a little over \$31,000. In 2005, this fish processing plant will employ less than 130 employees, but the workers' compensation premium will exceed \$148,000.

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MR. FAVRETTO then related similar information regarding his own business. He noted that in any of the aforementioned businesses he highlighted, there were no catastrophic injuries to cause the [workers' compensation] premiums to rise to the levels specified. The rise in workers' compensation premiums causes employers to reduce benefits and employees and require participation of employees and their families to subsidize the premiums. In fact, small businesses are borrowing money to pay for their workers' compensation premiums, which he characterized as destined for failure. In conclusion, Mr. Favretto encouraged the committee to pass HB 180 out of committee and address this matter this session.

REPRESENTATIVE CRAWFORD informed the committee that the [workers' compensation] premium for one of his rental properties was \$197 per year and it had no claims against it. However, two

years later the premium increased to \$856, although there still had been no claim. He related that he has heard that costs are increasing by 7-15 percent a year, although premiums have increased approximately 400 percent in that same timeframe. He asked if this is different from workers' compensation. He also asked if [the legislature] should also go after insurance companies for increasing the insurance rates on homeowners' insurance. He asked if another factor could be at play, such as the loss of \$7 trillion in the stock market.

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MR. FAVRETTO empathized with Representative Crawford as a business owner and commented that everyone is experiencing the same thing. He acknowledged that there is a lack of carriers, but expressed the need to do what's possible to correct as much as can be corrected.

JOHN DAVID RAGAN suggested that premium rate increases in Alaska aren't being driven by cost increases in Alaska. Rather, insurance companies paid out massive claims after the terrorist attacks of September 11, 2001 and suffered massive investment losses due to the stock market crash. Furthermore, companies insuring in Alaska have also had serious financial problems in other states. Therefore, cutting costs in Alaska may not actually impact those premiums, he opined. As a firefighter and a laborer, Mr. Ragan said that firefighters and emergency medical technicians (EMTs) deserve the best possible care available when injured in the line of duty, which falls under workers' compensation. Mr. Ragan characterized the freezing of the medical reimbursement rates that physicians can charge for specific injuries as a major problem. The aforementioned is a very bad idea, which he predicted would produce poor or second-rate medical care for workers' compensation patients because many physicians will simply choose not to take workers' compensation patients as is often done with Medicare patients. Mr. Ragan emphasized that "fixing up" workers and getting them back to work after being injured on the job is merely part of the cost of the job and part of the cost of doing business, which is what workers' compensation is about.

MR. RAGAN urged the committee to provide workers' compensation patients the best medical care possible by opposing this medical reimbursement cap at the 1999 level. He characterized the aforementioned as the smart thing to do because second-rate medical care will increase medical and nonmedical costs. He informed the committee that almost all of the studies performed,

including one performed by the International Brotherhood of Electrical Workers (IBEW), have concluded that the most cost effective way to deal with workers' compensation is to provide the injured worker the best medical care available and get the worker back to work as quickly as possible. Therefore, this legislation, which caps the medical reimbursement cap at the 1999 level, doesn't make sense. Furthermore, the legislation deducts pension money from workers' compensation payments.

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MR. RAGAN maintained that personal assets, such as an employee's pension, shouldn't be attacked because of the employee's accident. He stressed that it's not appropriate to punish those who have prudently set aside money in a pension plan. Furthermore, it's not [appropriate] to punish those who, after retirement, stay productive by getting another job. In conclusion, Mr. Ragan related his understanding that there was a very good, bipartisan, ad hoc committee consisting of representatives of employees and laborers who made some excellent suggestions. However, somehow those suggestions were brushed aside and HB 180 was introduced. He characterized HB 180 as a "knee-jerk punitive approach". Mr. Ragan suggested that HB 180 be killed and the committee return to the ad hoc committee's recommendations. He further suggested that if the desire is to cut costs, it should be done with massive emphasis on safety in the workplace and training. Current law, he charged, doesn't do enough to reward safe employers.

MARJORIE LINDER, Rehabilitation Counselor, expressed concern with HB 180, which seems to take out the profit margin that the insurance companies want. She related her belief that the reemployment benefit is being amended based on erroneous, unreliable, and unverifiable data. The data is filled with nonrehabilitation related costs, such as settlement inducements so that employers can avoid paying a 6 percent assessment into the second injury fund. The reemployment benefits administrator can only find one-third of the cost reported by the carriers for claimants under the program he administers.

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MS. LINDER said that this faulty data is being used to raise rates for employers and reduce benefits for employees. She noted that the committee should have her testimony and exhibits illustrating this faulty data. She informed the committee that her fees were reported to be \$75,761 one year when in fact she

was paid \$43,478. Some carriers have reported paying rehabilitation providers over \$20,000 for an eligibility evaluation, which typically cost \$1,500 to \$2,000. She then turned attention to exhibits two and three, which are examples of different reporting practices for the sample carriers. The overall benefit is 7.4 percent, although she mentioned that the aforementioned figure can't be trusted because they are so disparately reported. However, when one reviews Freemont, which contributed to the situation in which Alaska finds itself today, the data specifies it paid 15.45 percent in rehabilitation costs [of the eligibility costs]. The reason the aforementioned is reported is because the insurance carrier can avoid paying a 6 percent assessment on rehabilitation costs into the second injuries fund, and therefore non-rehabilitation costs are characterized as rehabilitation costs.

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MS. LINDER turned attention to Wausau (ph), which reported paying 5.1 percent of its claim dollar to monitor rehabilitation plans for which it paid no one to write. Furthermore, Lieberman's Mutual reported paying .45 percent for plan costs that it paid no one to write. Still, these companies have large amounts in 041k, which is typically a waste basket for placing settlement inducements. Although the aforementioned money is characterized as rehabilitation costs, it isn't. Ms. Linder said that if she were an employer, she would be very concerned because the Division of Vocational Rehabilitation is making these insurers report costs under the correct column. However, these are used to raise rates on employers and now to cut benefits. These costs aren't real, she emphasized. Ms. Linder directed attention to exhibits 4 and 5, which illustrate that overall rehabilitation costs have decreased from 2002 to 2003, yet [insurers] are acting as if rehabilitation costs are rising and out of control and the reason for this 400 percent increase. She highlighted exhibit 6, which notes Commissioner O'Claray's written comment that he has found 155 people in 2002 who were paid rehabilitation costs but weren't even eligible for the benefit. Exhibits 7 and 8 illustrate that the reemployment benefit administrator who administrates the program can only find one-third of the costs reported by the carrier in the legitimate program that the administrator administers.

MS. LINDER suggested that the committee ensure that insurers report their costs accurately and in a standardized fashion. Furthermore, she suggested that the Division of Workers'

Compensation and the Insurance Commission ensure that the costs are reported correctly before making more problems.

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MS. LINDER announced that she has three amendments that she would propose and fax to the committee.

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CHAIR ANDERSON announced that he intended to review the physician issues brought up by Mr. Ragan as well as the recommendations of the ad hoc committee in order to develop some amendments. Chair Anderson expressed his desire to hear more testimony and entertain amendments next Wednesday. However, he noted that there is other legislation that the committee [needs to hear as well].

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REPRESENTATIVE GUTTENBERG highlighted that there are people who have been waiting to testify for four days, and therefore it might be prudent to have a meeting dedicated to taking public testimony on HB 180 only.

CHAIR ANDERSON clarified that that's the [tentative] plan for next Wednesday.

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REPRESENTATIVE GUTTENBERG pointed out that there is concern from small businesses regarding increased [workers' compensation] rates. However, he said that he didn't get a sense that small business [owners] understand HB 180 and its complexity, rather they merely want relief. Representative Guttenberg related his perspective that HB 180 "doesn't get there" with regard to lower [workers' compensation] rates.

[HB 180 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [2:49:46 PM.](#)