

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 15, 2006

3:32 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Pete Kott
Representative Gabrielle LeDoux

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Commissioner, Department of Commerce, Community, & Economic
Development

Bill Noll - Juneau

- CONFIRMATION(S) ADVANCED

Alcoholic Beverage Control Board ("ABC Board")

Billy (William) Andrews - Anchorage
Gail M. Niemi - Juneau

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 338

"An Act relating to applications, qualifications, and criminal history and background checks for a certificate of fitness for explosives handlers; and providing for an effective date."

- MOVED CSHB 338(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 402

"An Act relating to marriage brokers and advertisers and to dating and social referral services."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 338

SHORT TITLE: CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

SPONSOR(s): REPRESENTATIVE(s) CHENAULT, LYNN

01/09/06	(H)	PREFILE RELEASED 12/30/05
01/09/06	(H)	READ THE FIRST TIME - REFERRALS
01/09/06	(H)	L&C, FIN
01/18/06	(H)	L&C AT 3:15 PM CAPITOL 17
01/18/06	(H)	Heard & Held
01/18/06	(H)	MINUTE(L&C)
01/27/06	(H)	L&C AT 3:15 PM CAPITOL 17
01/27/06	(H)	Heard & Held
01/27/06	(H)	MINUTE(L&C)
02/15/06	(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 402

SHORT TITLE: MARRIAGE BROKERS AND ADVERTISERS

SPONSOR(s): REPRESENTATIVE(s) KERTTULA

01/27/06	(H)	READ THE FIRST TIME - REFERRALS
01/27/06	(H)	L&C, JUD, FIN
02/15/06	(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

BILL NOLL, Commissioner

Department of Commerce, Community, & Economic Development

Juneau, Alaska

POSITION STATEMENT: Testified as appointed commissioner of the Department of Commerce, Community, & Economic Development (DCCED).

BILLY (WILLIAM) ANDREWS, Appointee

to the Alcoholic Beverage Control Board ("ABC Board")

Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Alcoholic Beverage Control Board ("ABC Board").

GAIL M. NIEMI, Appointee

to the Alcoholic Beverage Control Board ("ABC Board")

Juneau, Alaska

POSITION STATEMENT: Testified as appointee to the Alcoholic Beverage Control Board ("ABC Board").

LALANYA SNYDER, Staff
to Representative Mike Chenault
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided opening statement on HB 338 on behalf of Representative Chenault, one of the prime sponsors.

TOM BRICE
Alaska District Council of Laborers
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 338.

GREY MITCHELL, Director
Central Office
Division of Labor Standards & Safety
Department of Labor & Workforce Development (DLWD)

POSITION STATEMENT: Testified during hearing on HB 338.

CLIFF HUSTEAD, Chief,
Consultation & Training
Occupational Safety & Health
Department of Labor Standards & Safety
Department of Labor & Workforce Development (DLWD)

POSITION STATEMENT: Testified during hearing on HB 338.

REPRESENTATIVE BETH KERTTULA
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 402.

SARALYN TABACHNICK, Executive Director
Aiding Women in Abuse & Rape Emergencies, Inc. (AWARE, INC)
Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 402.

HANNAH MCCARTY, Staff
to Representative Beth Kerttula
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during hearing on HB 402.

ACTION NARRATIVE

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:32:48 PM. Representatives Guttenberg, Crawford, Rokeberg, and Anderson were present at the

call to order. Representative Lynn arrived as the meeting was in progress.

CONFIRMATION HEARING(S)

Commissioner, Department of Commerce, Community, & Economic Development

Alcoholic Beverage Control Board

CHAIR ANDERSON announced that the first order of business would be the confirmation hearings on the appointment of Bill Noll as commissioner of the Department of Commerce, Community, & Economic Development (DCCED), and the appointments to the Alcoholic Beverage Control Board ("ABC Board").

[3:33:40 PM](#)

BILL NOLL, Commissioner, Department of Commerce, Community, & Economic Development (DCCED), began by explaining the three different divisions of the department. He pointed out that the department has a "broad mandate," which covers insurance, banking, and securities, in addition to community issues and job development.

[3:35:30 PM](#)

CHAIR ANDERSON remarked that he is not in support of the confirmation process, as it takes up the commissioners' and the committees time. He noted that questions may be more appropriate for the [Commerce, Community & Economic Development Finance Subcommittee], and directed members to contact the chair of the aforementioned subcommittee for additional information.

REPRESENTATIVE ROKEBERG replied that he feels it is "very appropriate" for the commissioner to come before the House Labor and Commerce Standing Committee. He commented that [Commissioner Noll] has done a "great job".

COMMISSIONER NOLL, in response to a question, said that the state's economy is doing well. This is, he said, due in part to high oil prices. The states natural resources are "up," which may lend a note of optimism to the problems regarding rural energy. He said that the state had \$3.6 billion in exports for 2005, and \$3.2 billion in 2004, which shows a significant increase. Of the 2005 exports, \$2 billion was from fish exports, which is up from 2004, when fish exports represented \$1.7 billion. He noted that the current administration has focused on this area, allocating \$50 million to marketing and

capital equipment. In Bristol Bay, he said, there was a time of "great duress," during which it was possible to purchase a fishing permit for \$14,000. The price of these permits has since increased to \$80,000, which greatly helps the families and individuals in the area. He stated that the DCCED intends to continue this "push" in 2006, in an effort to "cement" the fishing industry as a large employer.

REPRESENTATIVE CRAWFORD asked if the 2005 exports excluded oil and gas revenue.

COMMISSIONER NOLL replied that the \$3.6 billion excludes oil, which is not exported. However, it does include [natural gas liquids (NGL) exports], which is close to \$200 million.

REPRESENTATIVE CRAWFORD asked if the total exports are to foreign countries.

[3:39:18 PM](#)

COMMISSIONER NOLL replied that this is correct. In response to an additional question, he stated that the gross state product is \$33 billion.

[3:40:15 PM](#)

BILLY (WILLIAM) ANDREWS, Appointee to the Alcoholic Beverage Control Board ("ABC Board"), began by giving a brief history of his time on the ABC Board. He pointed out that he moved to Alaska in 1974 and worked in the Federal Bureau of Investigation (FBI) office in Anchorage before taking a position with the state. Currently, he said, he is the security manager for BP.

REPRESENTATIVE ROKEBERG noted that during a recent meeting of the ABC Board an application for a beverage dispensary license was denied. He asked why this occurred.

MR. ANDREWS replied that the aforementioned licensee was a restaurant in Valdez. He explained that a background review revealed a history of domestic violence and several driving under the influence (DUI) charges. He said that the applicant had not attended any rehabilitation programs for alcohol or anger management. He explained the ABC Board's view that, while the applicant had been removed from the license and planned for his spouse to take over the business, he would remain as part of the management of the business, therefore, the license was not granted.

REPRESENTATIVE ROKEBERG asked if this was a license renewal or a new license application.

MR. ANDREWS replied that it was for a license renewal.

REPRESENTATIVE ROKEBERG inquired as to the length of time since the applicant's last criminal charge.

MR. ANDREWS surmised that it was between [5-10 years].

REPRESENTATIVE ROKEBERG commented that this is a significant issue, and the decisions made by the ABC Board have an impact on businesses. He pointed out a recent incident at Hacienda Mexican Restaurant in Anchorage, involving the sale of alcohol to a minor. He inquired as to the length of the disciplinary action and if this was the restaurant's first offence.

MR. ANDREWS replied that although the restaurant was given a length of 15 days during which no alcohol could be sold, he would have preferred it to be 30 days. He said the restaurant had no prior offenses.

REPRESENTATIVE ROKEBERG asked if the offense was a result of a federally funded "sting operation."

MR. ANDREWS replied that he does not know from where the funding came. He pointed out that the owner of the business sold the alcohol to the minor and did not ask to see identification. He stated that, in his opinion, this is something that the ABC Board will not tolerate.

REPRESENTATIVE ROKEBERG asked if the ABC Board heard any testimony on the impact the 15 days would have on the business.

MR. ANDREWS replied that the owner testified that it would not run him out of business, and the restaurant did serve food during the 15 days.

CHAIR ANDERSON inquired as to the status of the application by a coffee shop in downtown Anchorage for a license to continue serving beer and wine. He noted that there was a question regarding whether the aforementioned establishment fits the statutory definition of a "food service establishment," and asked if the ABC Board is looking into a compromise.

MR. ANDREWS responded that the ABC Board has done some research into this issue. He said that Doug Griffin of the ABC Board met with the Cabaret, Hotel, Restaurant, and Retailers Association (CHARR), and CHARR's recommendations were passed along. He offered his understanding that this application is currently under legal review and is on the agenda for the next meeting of the ABC Board.

3:48:26 PM

GAIL M. NIEMI, Appointee to the Alcoholic Beverage Control Board ("ABC Board"), began by stating that she has been a member of the ABC Board for three years as an industry representative. She informed the committee that she and her spouse own the Sandbar in Juneau. In response to an earlier question, she explained that the incident at [Hacienda Mexican Restaurant in Anchorage] involved the sale of alcohol to a 15-year-old girl. The main issue of the ABC Board was that the pictures taken clearly showed that the individual in question was under age.

REPRESENTATIVE ROKEBERG asked what the typical punishment is for a first-time offender that serves alcohol to a minor.

MS. NIEMI replied that in her three years on the board, she has not seen any other issues of this type. She stated that generally, the "sting operations" result in an employee committing the offense. In these cases, the employee is cited by the ABC Board. However, the incident in question involved the sale of alcohol to the minor by the license holder. In regard to the coffee shop wishing to sell beer and wine, she opined that this is a "slippery slope." The food that was offered, she said, was cold hors d'oeuvres, and added that the statutes specify that in order for an establishment to have a beer and wine license, the purpose of patronizing the establishment must be for food. She opined that this is an "intriguing idea," but would require different guidelines.

CHAIR ANDERSON agreed that this is a "slippery slope," although he opined that the concern that bars would lose business is unfounded.

REPRESENTATIVE ROKEBERG noted that there is a "menu review" provision in statute, although "meal" is not defined. He opined that this should be changed.

MS. NIEMI, in regard to an earlier question regarding a Valdez business, explained that the two industry representatives on the

ABC Board voted in favor of granting the license, as the offenses in question occurred 10 years prior. She opined that this is a "good amount of time" [for change]. However, the majority of the ABC Board members felt that the license should not be granted.

[3:53:42 PM](#)

REPRESENTATIVE ROKEBERG asked for clarification that there were no other offenses in the past 10 years.

MS. NIEMI replied that in 1997, the applicant had a child support payment issue. She opined that this is a difficult industry, and expressed her feeling that, after 10 years he should not have been denied his license.

REPRESENTATIVE ROKEBERG asked for confirmation that it was the spouse of the individual in question who was applying for the license.

MS. NIEMI replied that the applicant originally requested that the license be transferred to him; however, the board denied the transfer. After this, the application was resubmitted under a corporation with his spouse, while he remained the active manager. This request was also turned down. One recommendation that was made suggested that the applicant request a letter on his behalf from the Valdez Police Department as this may have greater impact on the members of the ABC Board.

REPRESENTATIVE ROKEBERG asked Ms. Niemi's views regarding two members with law enforcement background on the ABC Board.

MS. NIEMI replied that the law enforcement background is "extremely valuable," and these members have practical experience regarding the issues that come before the board.

REPRESENTATIVE GUTTENBERG opined that Ms. Niemi has put a lot of thought into the issues and noted his appreciation.

CHAIR ANDERSON moved to advance the confirmations of Commissioner Bill Noll to the Department of Commerce, Community, & Economic Development, along with Billy Andrews and Gail Niemi to the Alcoholic Beverage Control Board ("ABC Board"), to the joint session for consideration. He noted that each member's signature on the committee report does not reflect the member's vote during the joint floor session. There being no objection, the confirmations were advanced.

HB 338-CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

CHAIR ANDERSON announced that the next order of business would be HOUSE BILL NO. 338, "An Act relating to applications, qualifications, and criminal history and background checks for a certificate of fitness for explosives handlers; and providing for an effective date."

3:59:02 PM

LALANYA SNYDER, Staff to Representative Mike Chenault, Alaska State Legislature, sponsor, informed the committee that since the last hearing on HB 338, some of the member's concerns have been discussed and a committee substitute (CS) has been drafted to address these concerns.

4:00:09 PM

REPRESENTATIVE CRAWFORD moved to adopt CSHB 338, Version 24-LS1380\G, Mischel, 2/11/06, as the working document. There being no objection, Version G was before the committee.

REPRESENTATIVE CRAWFORD stated that he had concerns regarding the "default point" for a felony being set at 10 years. He opined that the [10-year time period] did not achieve what the [Department of Labor & Workforce Development (DLWD)] intended. He explained that the CS gives the department the ability to check fingerprints for terrorist watch. He referred to Section 4 of the CS, which read:

(b) The department shall establish in regulation standards of competency based on training, experience, criminal history and background checks, and physical fitness for the issuance of a certificate of fitness.

REPRESENTATIVE CRAWFORD said " ... I believe that takes into consideration all the ... concerns of the department and gets to the crux of the bill."

4:02:19 PM

TOM BRICE, Alaska District Council of Laborers (ADCL), explained that the ADCL is a union that represents many blasters. He expressed support for HB 338.

4:03:16 PM

GREY MITCHELL, Director, Central Office, Division of Labor Standards & Safety, Department of Labor & Workforce Development (DLWD), in response to questions from Representative Rokeberg, explained that the DLWD is currently working with members of the industry in order to establish regulatory standards. He stated that this provision allows the department to include the affected parties in establishing what the standards need to be.

REPRESENTATIVE ROKEBERG surmised that if the department decided to put a 10-year look back in the regulations, it could do so.

MR. MITCHELL replied that this is true.

REPRESENTATIVE CRAWFORD stated his understanding that the 10-year look back would not be used as a benchmark.

REPRESENTATIVE ROKEBERG asked for more detail regarding the nature of the regulations.

MR. MITCHELL replied that the Bureau of Alcohol, Tobacco & Firearms has established "pretty good" guidelines, which provide a good framework. He opined that by using the industry information given during the regulation process, the end result will be "good."

[4:05:27 PM](#)

CLIFF HUSTEAD, Chief, Consultation & Training, Department of Labor Standards & Safety, Department of Labor & Workforce Development (DLWD), commented that the regulations will address any concerns.

REPRESENTATIVE LYNN asked if the regulations would cover concerns regarding Version 24-LS1380\A.

MR. MITCHELL answered that this is correct. In response to additional questions from Representative Lynn, he explained that the department would look at different types of felonies in order to decide which felonies would create the most concern. He added that some felonies may require a longer [look back] time than others, and this will allow the department to narrow which felonies may create a problem. This will allow the department flexibility in order to protect public safety in a more complete way.

REPRESENTATIVE LYNN asked what kind of felony reflects a "responsible individual."

MR. MITCHELL replied that the department is looking at felonies involving violence against individuals or property.

CHAIR ANDERSON mentioned an example of an individual who hunted without a license, which for a one-year period was considered a felony. However, now it is a misdemeanor. He commented that this "is not like a rape or a murder."

REPRESENTATIVE LYNN expressed concern that all felonies indicate irresponsibility on some level, adding that he would like to see "very strict" regulations in order to "cover the issues."

MR. MITCHELL replied that the department will keep this in mind [during the regulatory process].

[4:08:36 PM](#)

REPRESENTATIVE LYNN moved to report CSHB 338, Version 24-LS1380\G, Mischel, 2/11/06, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 338(L&C) was reported from the House Labor and Commerce Standing Committee.

HB 402-MARRIAGE BROKERS AND ADVERTISERS

[Contains brief mention of HB 148]

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 402, "An Act relating to marriage brokers and advertisers and to dating and social referral services."

[4:09:17 PM](#)

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, sponsor, began by stating that HB 402 deals with the growing trade of [International Marriage Brokers (IMB)], which is often referred to as "bride trafficking." This bill is intended to provide foreign brides with information regarding the marital history and criminal history of the client. In addition, the IMB must provide information explaining the laws regarding domestic violence and where victims can obtain assistance. There are, she said, between 8,000 and 16,000 marriages per year as a result of IMB's. A study has shown that the rate of domestic violence in these marriages is close to 77 percent.

REPRESENTATIVE KERTTULA went on to say that her office has worked with a woman in this situation, in addition to receiving

anonymous phone calls from women in similar situations. She said that a growing number of states have passed legislation dealing with these issues, in addition to a new National Act which, when in effect, would not prohibit the states from taking action.

[4:11:33 PM](#)

REPRESENTATIVE LYNN opined that this is a type of "informed consent."

REPRESENTATIVE KERTTULA agreed and added that currently, women from foreign countries, who oftentimes do not speak English, are given minimal information. These women may be taken to isolated areas where they do not have any other contacts prior to realizing that the relationship [is abusive].

REPRESENTATIVE ROKEBERG, referring to page 3, line 22, of the bill, asked if online dating websites, such as Match.com, would be considered a "marriage broker or advertiser." He opined that the wording may be too broad.

CHAIR ANDERSON opined that there is a "big difference" between a marriage broker and an online dating service.

REPRESENTATIVE KERTTULA replied that HB 402 is intended to effect women from outside of the US, adding that she would look into this further.

[4:15:06 PM](#)

SARALYN TABACHNICK, Executive Director, Aiding Women in Abuse & Rape Emergencies, Inc. (AWARE, Inc.), read from written testimony as follows [original punctuation provided]:

I'm Saralyn Tabachnik, Executive Director of AWARE, Aiding Women in Abuse & Rape Emergencies, here in Juneau. I'm here to speak in support of House Bill 402, which serves to protect the safety and well being of foreign brides, to prevent abusive U.S. citizens from enticing foreign women into abusive relationships, and ultimately to promote safe and healthy marriages.

In the past year, AWARE staff has worked intensely with two women who came to [Juneau, Alaska] as foreign brides, and within a couple years, both experienced

domestic violence from their husbands. These women are extremely vulnerable, have limited English language skills, are without other resources in the United States, and are unfamiliar with the United States legal system. These are complex issues for battered immigrant women who fear for their and their children's safety and immigration status, particularly when their only source of information is their abusive husband.

Under this bill, foreign brides will receive, in their native language, the marital history of their potential spouse, a criminal history check including incidents of civil protection orders, explanations regarding marriage based immigration status, and information about domestic violence and appropriate interventions including crisis interventions.

I don't have enough information to say whether or not the women served by AWARE could have avoided violent relationships were this bill in place, however they certainly would have been aware of the resources available to them sooner. And providing foreign brides with information they need and deserve, and holding International Marriage Brokers to a standard of safety and accountability, are critical components for safety.

Within the United States, the federal Violence Against Women Act of 2005 addresses International Marriage Brokers and concerns for safety and access to information for foreign brides. I am hopeful that the Alaska Legislature will pass similar legislation this session.

Thank you very much.

REPRESENTATIVE LYNN said that he strongly supports the concept behind the bill. He asked when the information would be provided to the potential bride.

MS. TABACHNICK expressed her understanding that the information would be provided prior to coming to the United States.

REPRESENTATIVE LYNN asked if there would be proof of receipt for this information.

REPRESENTATIVE KERTTULA replied that "Return Receipt Requested" may be added, although the bill states that this information "must" be provided, therefore a return receipt may not be necessary.

CHAIR ANDERSON moved to adopt CSHB 402, Version 24-LS1432\G, Mischel, 2/7/06, for discussion purposes. There being no objection, Version G was before the committee.

CHAIR ANDERSON, referring to page 3, line 30, which adds a new paragraph, inquired as to the intent of this section.

HANNAH MCCARTY, Staff to Representative Beth Kerttula, Alaska State Legislature, noted that the aforementioned section was added at the recommendation of David Brower, Assistant Attorney General. She explained that this section adds marriage brokering, advertising, dating, and social referral services to the list of positions under which background information may be obtained.

REPRESENTATIVE KERTTULA recalling an earlier question, agreed that the language of the bill should be more specific in regard to who is required to give background information. In addition, she said, the bill is presently under the statutes which govern occupational licensing. She opined that this language may be more appropriate in the domestic violence statutes, adding that Mr. Brower also suggested this.

REPRESENTATIVE KERTTULA, in response to comments, agreed that the definition of "marriage broker or advertiser" should include the phrase "outside of the United States." In addition, she said, this should be changed in Section 1.

[HB 402 was held over.]

[4:22:40 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at [4:22:54 PM](#).