

ALASKA STATE LEGISLATURE
HOUSE STATE AFFAIRS STANDING COMMITTEE

February 14, 2006
8:08 a.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Carl Gatto, Vice Chair
Representative Jim Elkins
Representative Bob Lynn
Representative Jay Ramras
Representative Berta Gardner
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 186(JUD)

"An Act relating to the Alaska Executive Branch Ethics Act; 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

HOUSE BILL NO. 238

"An Act relating to contribution rates for employers and members in the defined benefit plans of the teachers' retirement system and the public employees' retirement system and to the ad-hoc post-retirement pension adjustment in the teachers' retirement system; requiring insurance plans provided to members of the teachers' retirement system, the judicial retirement system, the public employees' retirement system, and the former elected public officials retirement system to provide a list of preferred drugs; relating to defined contribution plans for members of the teachers' retirement system and the public employees' retirement system; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 186

SHORT TITLE: EXECUTIVE BRANCH ETHICS

SPONSOR(S): SENATOR(S) SEEKINS

04/22/05	(S)	READ THE FIRST TIME - REFERRALS			
04/22/05	(S)	STA, JUD			
04/26/05	(S)	STA AT 3:30 PM BELTZ 211			
04/26/05	(S)	Moved CSSB 186(STA) Out of Committee			
04/26/05	(S)	MINUTE(STA)			
04/27/05	(S)	JUD AT 8:30 AM BUTROVICH 205			
04/27/05	(S)	Scheduled But Not Heard			
04/28/05	(S)	STA RPT CS	3NR	1DNP	
		NEW TITLE			
04/28/05	(S)	NR: THERRIAULT, WAGONER, HUGGINS			
04/28/05	(S)	DNP: ELTON			
04/28/05	(S)	JUD AT 8:30 AM BUTROVICH 205			
04/28/05	(S)	Scheduled But Not Heard			
04/29/05	(S)	JUD AT 8:30 AM BUTROVICH 205			
04/29/05	(S)	LEGISLATIVE ETHICS/MEETINGS			
04/30/05	(S)	JUD AT 9:00 AM BUTROVICH 205			
04/30/05	(S)	Scheduled But Not Heard			
05/01/05	(S)	JUD AT 4:00 PM BUTROVICH 205			
05/01/05	(S)	Moved CSSB 186(JUD) Out of Committee			
05/01/05	(S)	MINUTE(JUD)			
05/02/05	(S)	JUD RPT CS FORTHCOMING	1DP	1DNP	2NR
		1AM			
05/02/05	(S)	DP: SEEKINS			
05/02/05	(S)	DNP: FRENCH			
05/02/05	(S)	NR: THERRIAULT, HUGGINS			
05/02/05	(S)	AM: GUESS			
05/02/05	(S)	JUD AT 8:30 AM BUTROVICH 205			
05/02/05	(S)	Moved Out of Committee 5/1/05			
05/02/05	(S)	MINUTE(JUD)			
05/03/05	(S)	JUD CS			RECEIVED
		NEW TITLE			
05/04/05	(S)	RETURNED TO RLS COMMITTEE			
05/08/05	(S)	TRANSMITTED TO (H)			
05/08/05	(S)	VERSION: CSSB 186(JUD)			
05/09/05	(H)	READ THE FIRST TIME - REFERRALS			
05/09/05	(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

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

WITNESS REGISTER

SENATOR RALPH SEEKINS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided information to the committee as sponsor of SB 186.

REPRESENTATIVE LES GARA

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 347, reviewed technical changes made to the bill.

J. KEVIN BURCHFIELD, Driver Services Supervisor

Division of Motor Vehicles

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 347.

DUANE BANNOCK, Director

Division of Motor Vehicles

Department of Administration

Juneau, Alaska

POSITION STATEMENT: Provided department feedback regarding suggested amendments during the hearing on HB 347.

ACTION NARRATIVE

CHAIR PAUL SEATON called the House State Affairs Standing Committee meeting to order at 8:08:28 AM. Representatives

Gatto, Elkins, Ramras, Gardner, and Seaton were present at the call to order. Representatives Lynn and Gruenberg arrived as the meeting was in progress.

SB 186-EXECUTIVE BRANCH ETHICS

8:09:15 AM

CHAIR SEATON announced that the first order of business was CS FOR SENATE BILL NO. 186(JUD), "An Act relating to the Alaska Executive Branch Ethics Act; and providing for an effective date."

8:09:31 AM

CHAIR SEATON closed public testimony. He noted there is written testimony in the committee packet from Richard Hahn.

8:10:30 AM

SENATOR RALPH SEEKINS, Alaska State Legislature, as sponsor of SB 186, indicated that he had some difficulty acquiring the information that was asked for by the committee. Notwithstanding that, he said, "From the testimony that Barbara Ritchie gave us ... she says it ... was fairly common for ethics complaints to be brought against someone just to get at them." In response to a question from Chair Seaton, he said in some cases [those complaints] were made public. He added that they did not get a press release, but they were passed around "in the inside of the organization to blacken someone's eye, so to speak." He said the biggest public [ethics issue] was the one that was "at first allegedly brought against former Commissioner Joel Gilbertson."

8:12:42 AM

CHAIR SEATON proffered, "We discussed that in some detail. The question is, though, that wouldn't have been released for stopping his advancement in the executive branch to another, which was the case that we were talking about."

8:12:51 AM

SENATOR SEEKINS answered that's correct. He directed attention to a handout [included in the committee packet] entitled, "Alaska Executive Branch Ethics Complaint Process," and showing [in a 24-step process covering four pages] "what happens in an

ethics complaint when it's brought." He told the committee that the process becomes public at step 11: "Does the investigation result in a finding of probable cause?" When the answer to that is yes, he explained, the attorney general serves a copy of the accusation on the subject, setting out the alleged violation, and all proceedings are then open to the public. He stated that the steps are logical and can be clearly followed through the Ethics Law statute. However, he pointed out that the way bills are drafted make it difficult to see the whole picture, because only the sections that are going to be amended are mentioned.

[8:16:04 AM](#)

REPRESENTATIVE GARDNER said Senator Seekins has described a complicated process of addressing ethical complaints. She asked Senator Seekins if he thinks a penalty for disclosure would have a chilling effect on people who have a legitimate concern for good government and would like to file a complaint.

[8:16:50 AM](#)

SENATOR SEEKINS emphasized his effort to write for the common person, not just lawyers. He stated his belief that when someone becomes involved in the public process, it should be clear what the law requires of him/her and of the person against whom the complaint is being made. Currently, it is a violation of the Ethics Act to break confidentiality prior to a finding of probable cause. He said, "If we condone breaking the Ethics Act on one person's side of the page and not the other, the law is hypocritical. And I don't think that's the intent of any of us that are in the legislature." He said he supports the committee process. He stated his belief that the person who knowingly or intentionally breaks a confidentiality requirement should receive penalty, but not so someone who does so unintentionally. He said the legislature has two choices: Either take the confidentiality requirement completely out of the law, or having a meaningful penalty for those who knowingly and intentionally break the law.

[8:22:16 AM](#)

REPRESENTATIVE GARDNER said there is a big distinction between someone who is trying to follow government and those who are in office. The latter group has to open up to public scrutiny. She asked, "Aside from your proposed penalties, what would be the consequences to somebody who signs something under oath that is knowingly false or malicious ...?"

8:23:23 AM

SENATOR SEEKINS answered that that is a different matter entirely. He clarified, "Someone who knows that it's [an] unrighteous complaint has broken another section of the law, and there should be a penalty for that - and there is." He said he thinks people have a responsibility to turn a person in when they know that person is wrongfully filing a complaint. He continued:

There are two things there: You're saying if you're bringing it and yet you know it isn't true, that's one violation. If you knowingly and intentionally make it public to get the second blow, that's a different violation. [They are] totally separate, and they shouldn't be confused.

8:25:02 AM

REPRESENTATIVE GATTO referred to [the aforementioned letter from Mr. Hahn]. In the letter, he noted, Mr. Hahn wrote that he considers "closed caucuses, where legislators are told how to vote, to be unethical." Representative Gatto said, "If this person truly believes that legislators are told how to vote, he's ... in serious error." Representative Gatto indicated that Mr. Hahn also thinks legislators "paid by special interests to sponsor or block legislation" [are unethical]. Representative Gatto opined that Mr. Hahn is making statements that are false. He said he personally faults the media more than the individual for printing a story for which it has no factual information. He said he would love to go after the media for carrying a story for which it had absolutely no basis other than "somebody said [it]." He stated that it's not a concern of his to stop a person from making a statement, because that's a First Amendment right. He concluded, "So, I guess it's not a question for you, except that I think it weighs heavily on how we handle ethics legislation when it specifically looks at the individual who simply made statement, rather than "the violator, which is the media."

8:28:23 AM

SENATOR SEEKINS said there will always be those who have no solution to what they perceive to be a problem but "just want to blow it up from the outside." He said he was in a discussion with someone in the media who portrayed news today as

entertainment rather than journalism. He told Representative Gatto, "When we were elected ..., there was this transformation that took place ... from being solid citizens in our community to becoming scoundrels in the eyes of many of the people in the public. And we have to live with that and understand that some folks just don't really understand the process."

8:30:00 AM

CHAIR SEATON moved to adopt Amendment 1, labeled 24-LS0874\X.5, Wayne, 2/13/06.

8:31:05 AM

REPRESENTATIVE GRUENBERG objected for the purpose of discussion. He said he has trouble with the language in the underlying statute regarding blind trusts. He handed out a copy of that statute [AS 39.50.040], which read:

Sec. 39.50.040. Blind trusts.

(a) A public official may transfer all or a portion of the official's assets to a blind trust for the duration of service in public office. The original assets placed in the blind trust shall be listed by the official in the statement required to be filed under this chapter. The instrument creating the blind trust must be included with the statement.

(b) For a trust to qualify under this section,

(1) assets transferred to the trust shall be marketable;

(2) the trustee shall be a bank or other institutional fiduciary;

(3) the trustee shall have full authority to manage the trust, including the purchase, sale, and exchange of its assets in accordance with fiduciary principles;

(4) information regarding the identity and the nature of its assets shall be confidential from the trustor for the duration of the trust;

(5) the trustee shall be required to report any known breach of confidentiality or the termination of the trust to the office where the trustor is required to file statements under this chapter; and

(6) ~~Repealed, Sec. 26 ch 25 SLA 1975~~.

REPRESENTATIVE GRUENBERG said there are two loopholes in [subsection (b), paragraph (4)]. He said the word "confidential" is vague and doesn't necessarily mean, "shall not be disclosed," which is what he said he thinks the intent is. Also, "from the trustor" is a loophole, he explained, because the "the trustee can simply tell the trustor, his wife, business associate, attorney, accountant, [or] somebody else." He said it is beyond the scope of the bill to deal with AS 39.50.040; however, he said he would like to add language in Amendment 1 to tighten those loopholes.

[8:32:40 AM](#)

REPRESENTATIVE GRUENBERG moved Conceptual Amendment 1 to Amendment 1, so that as used in AS 39.52.415, the following terms in AS 39.50.040(b)(4) shall have the following meanings: "confidentiality" shall mean "shall not be disclosed", and "trustor" shall include not only the trustor, but any trustor's agents or immediate family.

[8:35:06 AM](#)

REPRESENTATIVE GRUENBERG clarified Conceptual Amendment 1 to Amendment 1 upon a request from Representative Lynn.

[8:35:28 AM](#)

CHAIR SEATON stated that Conceptual Amendment 1 to Amendment 1 would mean that a management firm or agency would be prevented from disclosing to the person who deposits the assets what any of those assets are.

[8:35:45 AM](#)

REPRESENTATIVE GRUENBERG added, "Or what happens to them, yes - that makes it blind, as opposed to just a trust."

[8:35:58 AM](#)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 1 to Amendment 1. There being none, it was so ordered.

[8:36:58 AM](#)

SENATOR SEEKINS directed attention to the language in Amendment 1 [as amended], which read, "the trust must be divested promptly

of assets originally transferred into it by the public officer". He asked Chair Seaton if he has considered the tax ramifications of that language for someone who has a large portfolio. He offered his understanding that the portfolio that was transferred by the former attorney general exceeded a million dollars. He said, "If those assets were to be divested, any unrealized gains would immediately become taxable, because they would become realized gains, and you would subject that particular person to probably in excess of 25 percent of their portfolio being spent immediately as taxes, which would have a chilling effect on being involved as a successful person in public office." He said the definition of a blind trust is "a trust set up to prevent the owner from having detailed knowledge of the assets in the trust."

[8:38:18 AM](#)

CHAIR SEATON explained the reason for the language is that a person will know initially what's in the trust. He added, "And if there is no requirement for divestiture in that, you're going to know for a long period of time." He said the tax consequences of which Senator Seekins spoke "would be correct if there was a zero cost basis for those assets."

[8:38:56 AM](#)

SENATOR SEEKINS noted that government officials frequently use blind trusts to avoid conflicts between their official duties and personal financial transactions. He surmised that Governor Murkowski has bank shares that he bought 20-25 years ago. He opined, "You're discouraging successful people from being involved in government."

[8:39:52 AM](#)

CHAIR SEATON explained that the intent is not to say that everyone has to divest all their assets and put them into a blind trust. He said, "This is a mechanism that would be voluntarily used by a person who thought that they were going to have an ethical conflict with certain stocks or certain assets that they owned, and as long as they put that into some place that they would remain fairly confident would remain in that trust until some future time, whatever actions they would take would have effect on their assets."

[8:41:07 AM](#)

REPRESENTATIVE GRUENBERG said Senator Seekins' remarks give him concern. He asked if deleting lines 9 and 10 [as labeled on Amendment 1, as amended] would alleviate Senator Seekins' concern.

[8:42:11 AM](#)

SENATOR SEEKINS suggested that the reference to AS 39.50.040 should be made directly to the section of the Ethics Act, rather than to the provision that allows a public official to "transfer those acts in." He said he would also change the reference on line 8 [as numbered on Amendment 1, as amended] "to that section of the Executive Ethics Act."

[8:42:48 AM](#)

REPRESENTATIVE GRUENBERG moved Amendment 2 to Amendment 1 [as amended], on line 8 [as numbered on Amendment 1, as amended] to delete "under" and insert "as defined in".

CHAIR SEATON objected for discussion purposes.

[8:44:24 AM](#)

REPRESENTATIVE GRUENBERG, in response to Chair Seaton and Senator Seekins, said there would be more language to amend, but he would like to address the changes in small steps.

[8:44:37 AM](#)

CHAIR SEATON asked if there was any further objection to Amendment 2 to Amendment 1 [as amended]. [Chair Seaton's own objection was treated as removed.] There being no further objection, Amendment 2 to Amendment 1 [as amended] was adopted.

[8:44:56 AM](#)

REPRESENTATIVE GRUENBERG said he doesn't understand the phrase "and a provision of this chapter" on line 8 [as numbered on Amendment 1, as amended]. He said it is vague.

[8:45:14 AM](#)

CHAIR SEATON explained, "This provision was to apply to a blind trust utilized in this ... section of the Ethics Act."

[8:46:24 AM](#)

REPRESENTATIVE GRUENBERG moved Conceptual Amendment 3 to Amendment 1 [as amended], on line 8 [as numbered on Amendment 1, as amended] to delete "and a provision" and insert "for these purposes".

[8:47:28 AM](#)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 3 to Amendment 1 [as amended]. There being none, it was so ordered.

[8:47:52 AM](#)

REPRESENTATIVE RAMRAS stated his support of SB 186. He said it would allow the public a methodology for approaching ethics issues in an appropriate and responsible fashion. He said the proposed legislation would also help attract the best people into the executive branch of government. He said he does not think [Amendment 1, as amended] serves that purpose and he plans to vote against it, even as amended.

[8:48:54 AM](#)

REPRESENTATIVE GRUENBERG concurred with the previous comments of Senator Seekins that Amendment 1 [as amended] would have adverse tax consequences for someone entering the executive branch because of language in [paragraph] (1), on lines 9 and 10 [as numbered on Amendment 1 [as amended], text provided previously]. He suggested an amendment could be offered to address this issue, but he said he is not interested in weakening the Ethics Act. He said he would like to hear Chair Seaton's response.

[8:50:01 AM](#)

CHAIR SEATON directed attention to [page 1, lines 12-13], which read: "**or the public officer does not have management control over the financial interest**". Chair Seaton said many people have managed accounts and receive a quarterly or monthly report, and thus know exactly what is in the account. He clarified, "We may not have management control [regarding] whether we're buying or selling things out of that portfolio, but we know what's in it." Chair Seaton said that raises an ethical concern. He explained that buying and selling assets is not what creates the ethical conflict; the ethical conflict comes from having "an asset which you can make more valuable by your actions." Therefore, he suggested that the next amendment would be to

eliminate the management control section and maintain the blind trust. He then related his understanding that for this ethical violation, [assets] would be voluntarily placed in a [blind trust] to escape an ethical problem. The aforementioned, he said, is before the committee for consideration.

[8:52:20 AM](#)

REPRESENTATIVE LYNN asked the bill sponsor if he thought Amendment 1 [as amended] needed further amending.

[8:53:36 AM](#)

SENATOR SEEKINS said he would like to see the blind trust left in the ethics laws because it allows a successful individual who has already had to disclose what was in his/her portfolio to place it outside of his/her management control. He indicated that the language in the bill, "**financial interest in a matter is held in a blind trust or the public officer does not have management control over the financial interest**", was added in an effort to "not preclude other mechanisms that duplicated the same thing with a blind trust." He added, "But ... they should have that confidentiality, so I wouldn't have any objection to that other language being stricken." He stated, "If there's anything in there that says you have to divest of that asset ... and take those tax ramifications ..., I think it has a chilling effect."

[8:54:53 AM](#)

REPRESENTATIVE LYNN asked if Senator Seekins was talking about line 9 [as numbered on Amendment 1, as amended].

[8:55:07 AM](#)

SENATOR SEEKINS answered yes. He reiterated his concern that it would discourage people from running for office.

[8:55:24 AM](#)

REPRESENTATIVE GARDNER said it seems that the chilling effect would not be on someone's ability to be in office but in his/her ability to make public decisions which that person has reason to believe would benefit him/herself. She continued:

Outside of management control, as a blind trust is, does not mean "has not personal interest or stake in

the outcome," and that's where we need to find a solution. If I have valuable assets and I don't want to pay the taxes on them, ... I put them in a blind trust. I know they're in a blind trust; I have every reason to expect they're still going to be there after I finish my public service. I have an interest and a stake in the outcome of decisions I make. And I think that if we want to serve the public good, we need to remove that possibility. We can serve, and we cannot deal with issues that directly affect our own assets, whether they're in a blind trust or not.

[8:56:35 AM](#)

SENATOR SEEKINS posited that the effect of Representative Gardner's suggestion would be to limit the talent pool and end up with candidates for high office who "have never been successful in their own life and career - in terms of investing in their portfolio." He reiterated, "These are assets, [that] when ... put in the blind trust, ... have already been publicly disclosed according to our public disclosure laws."

[8:57:22 AM](#)

SENATOR SEEKINS, in response to a request for clarification from Chair Seaton, admitted that he had been referring to those in higher office "where the ... greatest conflict does exist in terms of stock portfolio." He said the average state employee probably does not have a significant stock portfolio; however, many of them still do have some type of stock investment. He offered examples.

[8:57:57 AM](#)

CHAIR SEATON said:

And again, we're talking about not the fact that you have [a] stock portfolio or that you have assets, but only if you are in a situation where the ... executive branch action that you are going to take is going to significantly impact the value of that asset and it rises above the value of \$10,000.

[8:58:23 AM](#)

SENATOR SEEKINS said that could happen.

[8:58:34 AM](#)

CHAIR SEATON reiterated that it's not just about a 401K and its value, but also that "you have to be taking an action which is influencing that investment."

[8:58:49 AM](#)

SENATOR SEEKINS concurred.

[8:59:08 AM](#)

REPRESENTATIVE GARDNER asked if there has ever been an instance where anyone has not come into government because of a lack of a blind trust provision in Alaska's ethics law.

[8:59:38 AM](#)

SENATOR SEEKINS said there is an existing blind trust law which allows a person to "put that in just to avoid any conflict of interest." To Representative Gardner's question, he said he has not polled those who have not come into public service to find out if that's the reason they didn't.

[9:00:25 AM](#)

REPRESENTATIVE GRUENBERG said he thinks there are a number of successful classified employees "who potentially might use this." He offered an example of someone who is a land officer who owns land in a subdivision in which other parcels are being sold. He said that person's parcel might be affected by what the land disposal is.

REPRESENTATIVE GRUENBERG moved to adopt Amendment 4 [to Amendment 1, as amended], beginning on line 9 [as numbered on Amendment 1, as amended], to delete: "the trust must be divested promptly of assets originally transferred into it by the public officer; and (2)".

[9:01:34 AM](#)

CHAIR SEATON pointed out that if the committee were to adopt Amendment 4 to Amendment 1 [as amended], there wouldn't be anything left to Amendment 1 [as amended]. He said, "... The blind trust just wouldn't be quite as blind."

[9:01:46 AM](#)

REPRESENTATIVE GRUENBERG responded that that's not his intent. He stated that he thinks [Amendment 1, as amended] is a good amendment, "aside from that one issue." He said the amendment still includes language about a blind trust and the recently adopted Amendment 1 to Amendment 1 tightens up the definition of blind trust for the purpose of the Ethics Act. He stated his hope that Chair Seaton does not withdraw Amendment 1 [as amended].

[9:02:49 AM](#)

REPRESENTATIVE GARDNER stated her objection to Amendment 4 to Amendment 1 [as amended].

[9:03:04 AM](#)

REPRESENTATIVE GATTO offered a hypothetical question:

Let's just ... say you live in Juneau, in your own home, and you're a successful businessman - you own a \$600,000 home - which in this vicinity is not that unusual. Would you have to put that in a blind trust, if indeed before your committee was coming legislation that indicated we might have to move the capital, and therefore you would say, "Gosh, what will happen to the value of my home?" Would that have to be in a blind trust, then?

[9:03:51 AM](#)

SENATOR SEEKINS said he doesn't believe so. He said a person might look at the home as an investment, but it's where he/she lives. He said he thinks that would be exempt from that provision. A piece of property, on the other hand, could be considered an investment, he concluded.

[9:04:05 AM](#)

CHAIR SEATON said if the language in Amendment 4 to Amendment 1 [as amended] is going to be deleted, then he thinks lines 11-16 [as numbered on Amendment 1, as amended] should be deleted as well, because they deal with an asset that's transferred into the trust, which would continue to be there until a person is notified that it's no longer there. He said that's the same as a person knowing what's in his/her blind trust until being notified that it's no longer there.

CHAIR SEATON said he would like Representative Gruenberg to withdraw Amendment 4 to Amendment 1 [as amended] and offer an amendment to delete lines 9-16 [as numbered in Amendment 1, as amended].

[9:05:53 AM](#)

CHAIR SEATON, in response to comments by Representative Gruenberg, clarified his point is that a person has to be told when assets [in a blind trust] are sold. If that person has 10 assets and is told six of them have been sold, he/she knows that four still exist. He said, "So, ... anything that had a value of over \$10,000 is going to be known to be still in that trust until you're notified that it's gone. So, it totally defeats the idea of the blind trust."

[9:06:31 AM](#)

REPRESENTATIVE GRUENBERG withdrew Amendment 4 to Amendment 1 [as amended].

[9:07:08 AM](#)

CHAIR SEATON asked if there was any further discussion regarding Amendment 1 [as amended].

[9:07:24 AM](#)

A roll call vote was taken. Representatives Gardner, Gatto, and Seaton voted in favor of Amendment 1, as amended. Representatives Ramras, Gruenberg, Elkins, and Lynn voted against it. Therefore, Amendment 1, as amended, failed by a vote of 3-4.

[9:08:41 AM](#)

CHAIR SEATON moved to adopt [Conceptual] Amendment 2, as follows:

On page 3, line 30:

After "blind trust"

Delete "or other investment where the employee does not have management control over the financial interest"

On page 10, line 1:

After "appropriate"
Delete ", placement of the financial interest
into an investment where the employee does not have
management control over the financial interest"

Replace similar language throughout Version X.

CHAIR SEATON moved to adopt Amendment 1 to Amendment 2, as follows:

On page 1, line 12:
After "blind trust"
Delete "or the public officer does not have
management control over the financial interest"

[9:10:54 AM](#)

CHAIR SEATON asked if there was any objection to Amendment 1 to Amendment 2. There being none, it was so ordered.

[9:11:14 AM](#)

CHAIR SEATON asked if there was any objection to Amendment 2, [as amended].

[9:11:32 AM](#)

SENATOR SEEKINS said he has no objection to Amendment 2, as amended.

[9:11:39 AM](#)

CHAIR SEATON announced that there being no objection, Amendment 2, as amended was adopted.

[9:11:53 AM](#)

CHAIR SEATON moved to adopt Conceptual Amendment 3, as follows:

On page 2, line 7:
Insert new subparagraph "(D) does not have any
stock, purchase or other options that pertain to the
business;"
Reletter accordingly

CHAIR SEATON, upon a request from Representative Gruenberg, withdrew his motion to adopt Conceptual Amendment 3.

[9:13:16 AM](#)

REPRESENTATIVE GRUENBERG handed out an amendment labeled 24-LS0874\X.6, Chenoweth, 2/14/06, and he said he would like it to replace Conceptual Amendment 3, [but he did not make a motion to adopt it].

SENATOR SEEKINS indicated his acceptance of the language in the amendment labeled 24-LS0874\X.6, Chenoweth, 2/14/06.

[9:13:48 AM](#)

CHAIR SEATON renewed his motion to adopt Conceptual Amendment 3 [text provided previously].

[9:14:31 AM](#)

REPRESENTATIVES LYNN and GRUENBERG simultaneously objected for discussion purposes.

[9:14:40 AM](#)

CHAIR SEATON spoke to Conceptual Amendment 3. He said covering all stock options is probably more significant than specifying a dollar amount, because "there is a prospective arrangement of obtaining the business."

[9:16:23 AM](#)

REPRESENTATIVE GRUENBERG expressed a desire to have Conceptual Amendment 3 incorporated into his amendment labeled 24-LS0874\X.6, Chenoweth, 2/14/06.

[9:16:54 AM](#)

REPRESENTATIVE GATTO said he is confused by the language in Conceptual Amendment 3. After ascertaining from Chair Seaton that "options" is meant to modify "stock" and "purchase", he said he thinks the word "option" should follow both words.

[9:17:46 AM](#)

CHAIR SEATON said, "I would take that as a friendly amendment." [The committee treated that friendly amendment as an adopted Amendment 1 to Amendment 3].

CHAIR SEATON told Representative Gruenberg that he thinks it would be too confusing to carry out his suggestion of melding the amendments.

[9:19:25 AM](#)

REPRESENTATIVE GRUENBERG asked, "Suppose that you require an option for one share in the business. Are you prohibiting that ...?"

[9:19:30 AM](#)

CHAIR SEATON said if a person is acquiring an option in the business, it is going to be difficult to ascertain the percentage or the amount.

[9:20:14 AM](#)

REPRESENTATIVE GATTO, in response to Representative Gruenberg's question to Chair Seaton, said, "Well, if I have a company that has 5 shares - me, my wife, and my three children - a single share is worth 20 percent of the company."

[9:20:33 AM](#)

REPRESENTATIVE GRUENBERG said Representative Gatto is correct. He clarified his question: "Suppose you only have one share in a big company. ... The thing that I'm trying to get at is that the reason that there is in the legislation the 1 percent or \$10,000 di minimis exception is because otherwise you couldn't have even a ... tiny interest in the business." He said he doesn't think there is any evidence the committee has that that creates a substantial conflict. He concluded, "When you're talking about acquiring a business, that's a lot more by definition than 10 percent." Regarding "**other options that pertain to the business**", he said, "You could have an option to supply things to the business or an option - like in your fish business - to purchase fish from the business. That would be an option that pertains to the business. Are you going to prohibit that too?" He offered another example of how Conceptual Amendment 3 would disallow options. He said, "I thought we were talking about ownership interest here."

[9:22:13 AM](#)

REPRESENTATIVE GRUENBERG, in response to a remark by Chair Seaton, told the chair that Conceptual Amendment 3 [as amended]

would make having an option a conflict of interest. He explained:

So, I'm an executive branch employee, and I want an option to buy fish from the Seaton fish processing company. That would be unethical here. And that's just a business deal. You're either a supplier or a purchaser. Are you planning to ... prohibit that?

REPRESENTATIVE GRUENBERG asked that his amendment labeled 24-LS0874\X.6, Chenoweth, 2/14/06, be considered "an amendment in substitute to Conceptual Amendment 3." He expressed his willingness "to add something to it to do what you're suggesting."

[9:23:39 AM](#)

REPRESENTATIVE GARDNER said she thinks the committee is looking at the issue out of context. She noted that the bill lists insignificance as one criterion, and that is followed by the word "or". Therefore, she said, "If your example fits in the first one, then the second one's not..."

[9:23:47 AM](#)

REPRESENTATIVE GRUENBERG noted that the word "[INSIGNIFICANT]" is deleted from the bill [on page 1, line 7 of Version X]. He said "This is the definition that we're dealing with of what's insignificant."

[9:24:06 AM](#)

SENATOR SEEKINS announced that his presence was needed at another committee hearing.

CHAIR SEATON stated his understanding that Representative Gruenberg had moved to substitute Conceptual Amendment 3 [as amended] for the aforementioned language of 24-LS0874\X.6, Chenoweth, 2/14/06.

REPRESENTATIVE GRUENBERG asked if it was the chair's intention to pass the bill out of committee today. If not, he indicated that some work could be done outside of committee.

CHAIR SEATON said, "Sure, we can do that. We can put that on hold and work on that for better language."

[9:24:55 AM](#)

REPRESENTATIVE GATTO remarked that "INSIGNIFICANT" was removed from [page 1], line 7, but still shows on [page 1], line 10. He said he wondered if that was an oversight.

[9:25:21 AM](#)

REPRESENTATIVE GRUENBERG explained that the word "INSIGNIFICANT" is used in two different capacities. The one defines the quantity of an interest in the business, while the other defines the type of action that is taken by the business. He said keeping "INSIGNIFICANT" on line 10 is appropriate.

[9:25:37 AM](#)

REPRESENTATIVE GATTO said he has no way to quantify the word "INSIGNIFICANT", because it varies from person to person. He suggested that for the sake of keeping the integrity of the bill in order, the term may need a substitution.

[9:26:08 AM](#)

REPRESENTATIVE GRUENBERG said, "I would hope that we don't touch that language on line 10 because that's got to be up to the triers."

[9:27:03 AM](#)

CHAIR SEATON announced that Conceptual Amendment 3, as amended, would be put aside. [The motion to substitute Amendment 3, as amended, for the language of 24-LS0874\X.6, Chenoweth, 2/14/06 was left pending.]

[9:27:32 AM](#)

CHAIR SEATON moved to adopt Amendment 4, as follows:

On page 8, lines 16-24:
Delete Section 15
Re-number accordingly

REPRESENTATIVE RAMRAS objected for discussion purposes. He suggested that Amendment 4 would gut the intent of SB 186. He indicated that the \$5,000 fine that would be deleted is the heart of the bill.

[9:28:48 AM](#)

CHAIR SEATON responded that the bill contains a lot more than that; it also defines the amount and includes business partners as well as members of the family. Currently, he said, a person who files [a complaint] he/she knows is not true is subject to "false swearing" penalties. He said, "It does not put a separate new section of law for someone who discloses that they're about to or did file [an] ethics complaint, but it would not relieve one from ... filing a false ethics complaint and the charges that would arise from that."

[9:29:51 AM](#)

REPRESENTATIVE GARDNER stated that she thinks the ethics bill can be a strong one without having penalties for the public.

[9:30:08 AM](#)

REPRESENTATIVE GATTO stated his belief that "we" are looking at the wrong people when trying to assess a fine against an individual for making a statement, even though the statement may be an exaggeration. He stated his support of Amendment 4.

[9:31:11 AM](#)

REPRESENTATIVE RAMRAS maintained his objection to Amendment 4.

REPRESENTATIVE GRUENBERG said, "I'm going to stand corrected ... just for the record" He stated that making a false statement under oath is perjury, which is a class B felony, whereas unsworn falsification - submitting a false written or recorded statement on an application for a benefit or a form bearing a notice, with the intent to mislead a public servant in the performance of a duty - is a class A misdemeanor.

REPRESENTATIVE GRUENBERG said he was citing AS 11.56.200 and 210. He indicated that the entire statute regarding perjury and related offenses is found in AS 11.56.200-240.

[9:32:05 AM](#)

A roll call vote was taken. Representatives Gardner, Gruenberg, Gatto, and Seaton voted in favor of Amendment 4. Representatives Elkins and Ramras voted against it. Therefore, Amendment 4 passed by a vote of 4-2.

[9:32:59 AM](#)

CHAIR SEATON moved to adopt Conceptual Amendment 5, as follows:

On page 8, line 26:
Delete "shall"
Insert "may"

[9:33:29 AM](#)

REPRESENTATIVE GRUENBERG objected for discussion purposes. He stated his support of Amendment 5, then removed his objection.

[9:33:43 AM](#)

CHAIR SEATON asked if there was any other objection. There being none, Conceptual Amendment 5 was adopted.

[9:33:54 AM](#)

CHAIR SEATON moved to adopt Amendment 6, as follows:

On page 9, lines 3-4:
Delete paragraph (3)

On page 9, lines 16-17:
Delete paragraph (3)

[9:34:33 AM](#)

REPRESENTATIVE RAMRAS objected.

[9:34:40 AM](#)

REPRESENTATIVE GRUENBERG observed that Conceptual Amendment 6 is a conforming amendment.

[9:34:49 AM](#)

REPRESENTATIVE RAMRAS said, "I just think we shouldn't have amended Section 15 out of the bill, so I object to this amendment for the same reason."

[9:35:04 AM](#)

A roll call vote was taken. Representatives Gruenberg, Gatto, Gardner, and Seaton voted in favor of Conceptual Amendment 6.

Representatives Elkins and Ramras voted against it. Therefore, Conceptual Amendment 6 passed by a vote of 4-2.

[9:36:07 AM](#)

REPRESENTATIVE GRUENBERG moved Conceptual Amendment 7, as follows:

On page 9, lines 18-19:
Delete subsection (d)

REPRESENTATIVE GRUENBERG explained that the language in subsection (d) references language that the committee just deleted [in Conceptual Amendment 6].

[9:37:25 AM](#)

CHAIR SEATON asked if there was any objection to Conceptual Amendment 7. There being none, it was so ordered.

[9:37:42 AM](#)

REPRESENTATIVE GRUENBERG directed attention to page 8, lines 26-29, which read as follows:

Sec. 39.52.352. Wrongful use of complaint.

(a) The board shall find there has been wrongful use of an executive branch ethics complaint if it determines, after compliance with due process requirements, including a hearing and a majority vote, that the complainant

REPRESENTATIVE GRUENBERG noted that the language does not specify whether or not it must be a public "hearing".

REPRESENTATIVE GRUENBERG moved to adopt Amendment 8, as follows:

On page 8, line 28:
Before "hearing"
Insert "public"

[9:38:33 AM](#)

CHAIR SEATON objected for discussion purposes.

[9:38:39 AM](#)

REPRESENTATIVE GATTO [moved to adopt] an amendment to Amendment 8, as follows:

On page 8, line 28:
After "hearing"
Insert ", if requested"

[9:38:55 AM](#)

CHAIR SEATON announced that the amendment to Amendment 8 was adopted without objection.

[9:40:06 AM](#)

REPRESENTATIVE GRUENBERG, in response to a question from Representative Gatto, said both the complainant and the board have the ability to request a hearing.

[9:40:25 AM](#)

CHAIR SEATON removed his objection to Amendment 8 [as amended]. There being no further objection, Amendment 8 [as amended] was adopted.

REPRESENTATIVE GARDNER noted that she had distributed an amendment but was not prepared to moved it today.

[9:40:56 AM](#)

CHAIR SEATON announced that SB 186 was heard and held.

HB 347-MOTOR VEHICLE INSURANCE & NOTICE

[9:41:57 AM](#)

CHAIR SEATON announced that the last order of business was HOUSE BILL NO. 347, "An Act relating to mandatory motor vehicle insurance, license suspensions, and notices relating to motor vehicles and driver's licenses."

[Amendment 1, left pending from the 1/31/06 House State Affairs Standing Committee meeting, was renamed and offered as Amendment 7.]

[9:42:14 AM](#)

REPRESENTATIVE LES GARA, Alaska State Legislature, as sponsor of HB 347, explained that at the last hearing of the bill there were some technical changes that both the committee and the director of the Division of Motor Vehicles had recommended, and he said those changes are stapled together in the committee packet as possible amendments.

REPRESENTATIVE GARDNER, in response to a question from Chair Seaton, said she would be offering those amendments.

[9:42:45 AM](#)

CHAIR SEATON directed attention to an e-mail in the committee packet from Duane Bannock, Director, Division of Motor Vehicles.

[9:43:25 AM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 1, as follows:

On page 2, line 2:

Following "department"

Insert "Notwithstanding AS 28.05.121"

[9:44:28 AM](#)

CHAIR SEATON asked if there was any objection to Amendment 1. There being none, it was so ordered.

[9:44:39 AM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 2, [labeled "24-LS1372\G.6, Luckhaupt, 2/1/06"], which read as follows:

Page 2, lines 3 - 4:

Delete "**most current**"

Insert "**most recently recorded**"

[9:45:13 AM](#)

REPRESENTATIVE GATTO objected. He said the most recently recorded address may not necessarily be the most current; therefore he questioned the advantage of Amendment 2.

[9:46:06 AM](#)

REPRESENTATIVE GARDNER suggested using the phrase "most recently provided" instead.

REPRESENTATIVE GATTO suggested the phrase "most recently obtained".

REPRESENTATIVE ELKINS asked why the committee doesn't leave the language to read "most current".

REPRESENTATIVE GATTO explained that a person could say, "You know, that's my most current address, but I'm leaving there in a day. Why don't you just send it to my Mom"

[9:47:18 AM](#)

CHAIR SEATON reminded the committee that "we're not dealing with someone's private knowledge. He explained that the address in question would be obtained from only three sources, [as shown on page 2, lines 5-9, which read as follows:]

- (1) the address the department has for the person;
- (2) the address shown on the citation or police report of the accident; and
- (3) the address provided to the Department of Revenue in an application for a permanent fund dividend.

CHAIR SEATON said he wants to know the reason for the request for Amendment 2.

[9:47:42 AM](#)

J. KEVIN BURCHFIELD, Driver Services Supervisor, Division of Motor Vehicles, Department of Administration, testified that "**most recently recorded**" is preferred so that the address obtained from the accident report can be used. He added, "That is the person that was in the most recent contact with the individual."

[9:48:07 AM](#)

REPRESENTATIVE GRUENBERG remarked that from a law perspective, the word "recorded" usually refers to a deed that is recorded by the registrar of deeds.

[9:48:54 AM](#)

REPRESENTATIVE GARA, in response to Chair Seaton, recalled that the it was the committee who had a problem with the term "**most current**". He said he thinks that term would work, or perhaps "most recently provided" would work.

[9:49:18 AM](#)

MR. BURCHFIELD, in response to Representative Gara's suggestion, said "most recently provided" is acceptable.

[9:49:51 AM](#)

REPRESENTATIVE GATTO stated his preference for the phrase "including but not limited to", which includes the three items previously noted, but "gives the individual an ability to seek out any other one."

[9:49:58 AM](#)

CHAIR SEATON clarified that the issue is that currently the DMV has to send that notice to the [address] that it has on file, even if the police report or the Permanent Fund Division has a more current address. He stated, "I mean, if we're wanting to go out and say DMV is supposed to go out on an Internet search for somebody's address, ... we're stepping far beyond where we are in this bill currently."

REPRESENTATIVE GARDNER, in response to Representative Gatto's recommendation, suggested that if the language said "most current but not limited to", a person could say, "But you could have sent it to all of them and you didn't, and therefore you didn't make efforts to reach me." She warned that would open up unnecessary problems. She stated her preference for the term "most recently provided".

[9:51:10 AM](#)

REPRESENTATIVE GATTO maintained his objection. He remarked that the "**most recently provided**" [address] could be a couple years old.

[9:51:25 AM](#)

CHAIR SEATON responded that someone who provide the police officer with an address that is a couple of years old doesn't want to get his/her notice from DMV.

[9:51:55 AM](#)

MR. BURCHFIELD, in response to a question from Representative Gruenberg, said the word "recorded" is a reference to the way that [the address] is recorded on the accident report. He said it is probably a poor choice of words.

CHAIR SEATON, in response to a question from Representative Gruenberg, explained again that the language in question refers to the three addresses [on page 2, lines 5-9, text provided previously].

[9:52:39 AM](#)

REPRESENTATIVE GRUENBERG moved to adopt Amendment 1 to Amendment 2, to change "recorded" to "provided". There being no objection, Amendment 1 to Amendment 2 was adopted.

[9:53:17 AM](#)

CHAIR SEATON asked if there was any objection to Amendment 2, [as amended]. There being none, it was so ordered.

[9:53:31 AM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 3, [labeled "24-LS1372\G.5, Luckhaupt, 2/1/06"], which read as follows:

Page 2, line 6:
Delete "citation or"

[9:54:38 AM](#)

CHAIR SEATON offered his understanding that Representative Gruenberg stated an objection [for discussion purposes].

REPRESENTATIVE GRUENBERG asked Mr. Burchfield, "If there happens to be a citation, why couldn't they use that address?"

[9:54:46 AM](#)

MR. BURCHFIELD responded, "Because the Division of Motor Vehicles does not receive the citations."

[9:54:55 AM](#)

REPRESENTATIVE GRUENBERG removed his objection. There being no further objection to Amendment 3, it was so ordered.

[9:55:24 AM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 4, [labeled "24-LS1372\G.4, Luckhaupt, 2/1/06], which read as follows:

Page 2, lines 7 - 9:
Delete all material.
Insert "**accident.**"

[9:56:49 AM](#)

DUANE BANNOCK, Director, Division of Motor Vehicles, Department of Administration, [in response to some committee discussion], clarified for the committee that Amendment 4 "is specific only to the Department of Revenue as it pertains to [the] permanent fund [dividend]." He said DMV asked that the language be removed because [obtaining addresses from the Permanent Fund Division] would be outside the field of DMV.

[9:57:21 AM](#)

REPRESENTATIVE GARA, in response to Representative Gruenberg, said he would leave the decision whether or not to adopt Amendment 4 up to the committee. He proffered that the most accurate address will be the one on the citation or accident report.

[9:58:00 AM](#)

REPRESENTATIVE GARDNER said the problem in including the language [on page 2, lines 8-9, text provided previously] is that it would require DMV to take the additional step of looking up the permanent fund dividend application information, which is really not the DMV's bailiwick.

[9:58:35 AM](#)

CHAIR SEATON objected to Amendment 4, in order to further clarify the language. He then removed his objection.

[9:59:22 AM](#)

REPRESENTATIVE ELKINS objected. He explained as follows:

Years ago I used to buy dividends - permanent fund dividends - and when they changed the law, I had a lot of money out there that I couldn't get paid for. And I had to take those addresses, and find those people, and get them to show proof of birth, ... because the Department of Revenue had determined that if they sold their dividend they might not be a real person. And I got to tell you - and it was quite a bit of money, ... so obviously quite a few people - [for] every person that I had to contact the address was true. And so, ... I have a little bit of problem taking that out, because people don't fool around -- I mean, when they put their permanent fund address down, it's usually bedrock.

[10:00:19 AM](#)

CHAIR SEATON responded that he understands Representative Elkins' point of view. However, he stated that he supports Amendment 4 because he doesn't want to burden DMV with having to seek out addresses of people who are not giving police their most current address.

[10:01:18 AM](#)

CHAIR SEATON asked if there was any objection to Amendment 4. [Representative Elkins' objection was considered withdrawn]. There being no further objections, Amendment 4 was adopted.

CHAIR SEATON referred to [page 2, lines 6-7], which [after being previously amended by the adopted Amendments 3 and 4] read:

(2) the address shown on the police report of the accident.

CHAIR SEATON asked if that language is acceptable.

REPRESENTATIVE GARA said he thinks that DMV's position is that the report is called an accident report, not a police report.

[10:01:39 AM](#)

CHAIR SEATON asked Mr. Bannock for his recommendation.

[10:02:47 AM](#)

MR. BANNOCK recommended that the word "police" on page 2, line 6, be deleted and replaced with the word "accident". In response to a request for clarification from Chair Seaton, he amended his recommendation to simply delete "police", thus leaving:

(2) the address shown on the report of the accident.

[10:03:49 AM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 5, as follows:

On page 2, line 6:
Delete "police"

CHAIR SEATON asked if there was any objection to Amendment 5. There being none, Amendment 5 was adopted.

[10:04:47 AM](#)

REPRESENTATIVE GARDNER moved to adopt Amendment 6, [labeled 24-LS1372\G.7, Luckhaupt, 2/1/06], which read as follows:

Page 1, line 6, following "infraction":
Insert "punishable by a fine not to exceed \$300"

REPRESENTATIVE GRUENBERG objected for discussion purposes, then removed his objection. He recalled that when this issue was discussed in the past, there was talk that "infraction" is "not defined in Title 28 anyway."

[10:05:57 AM](#)

REPRESENTATIVE GARA recollected that the discussion had taken place to address Representative Gruenberg's concern about whether or not "there was a catch-all fine amount for driving license violations." He said, "There is, but it doesn't state an amount." He said he wants "the \$300 fine to apply to this violation." He said he thinks Representative Gruenberg's recommendation was to "come up with a number and apply ... it to all violations at DMV." He said he does not feel comfortable coming up with an amount for the other violations, because he doesn't know what they are or what the fines should be. He concluded that he thinks [Amendment 6] is the "cleanest way to do it."

10:06:32 AM

REPRESENTATIVE GRUENBERG reiterated that his objection was withdrawn.

10:06:40 AM

CHAIR SEATON asked if there was any further objection to Amendment 6. There being none, Amendment 6 was adopted.

10:06:59 AM

CHAIR SEATON moved Amendment 7, labeled 24-LS1372\G.2, Luckhaupt, 1/27/06 [previously named Amendment 1], which read as follows:

Page 1, line 1, following "**suspensions**,":

Insert "**penalties for operating a motor vehicle while license is canceled, suspended, revoked, or limited, mandatory impoundments of vehicles used in certain offenses**,"

Page 1, following line 6:

Insert a new bill section to read:

"* **Sec. 2.** AS 28.15.291(b) is amended to read:

(b) Upon conviction under (a) of this section, the court

(1) shall impose a minimum sentence of imprisonment

(A) if the person has not been previously convicted, of not less than 10 days with 10 days suspended, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(B) if the person has been previously convicted, of not less than 10 days;

(C) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(1), or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 20 days with 10 days suspended, and a fine of not less than \$500, including a mandatory condition of probation that the defendant complete not less than 80 hours of community work service;

(D) if the person's driver's license, privilege to drive, or privilege to obtain a license was revoked under circumstances described in AS 28.15.181(c)(2), (3), or (4) or if the person was driving in violation of a limited license issued under AS 28.15.201(d) following that revocation, of not less than 30 days and a fine of not less than \$1,000;

(2) may impose additional conditions of probation;

(3) may not

(A) suspend execution of sentence or grant probation except on condition that the person serve a minimum term of imprisonment and perform required community work service as provided in (1) of this subsection;

(B) suspend imposition of sentence;

(4) shall revoke the person's license, privilege to drive, or privilege to obtain a license, and the person may not be issued a new license or a limited license nor may the privilege to drive or obtain a license be restored for an additional period of not less than 90 days after the date that the person would have been entitled to restoration of driving privileges; and

(5) may order that the motor vehicle that was used in commission of the offense be forfeited under AS 28.35.036 and shall order that the motor vehicle used in the commission of the offense be forfeited under AS 28.35.036 if the person has been previously convicted under this section."

Renumber the following bill sections accordingly.

Page 2, following line 9:

Insert new bill sections to read:

"* **Sec. 5.** AS 28.35.036(b) is amended to read:

(b) Before forfeiture of a motor vehicle, aircraft, or watercraft, the court shall schedule a hearing on the matter and shall notify the state and the convicted person of the time and place set for the hearing. Except for a motor vehicle, aircraft, or watercraft that is required to be forfeited under AS 28.15.291, AS 28.35.030, or 28.35.032, the court may order the forfeiture of the motor vehicle if the court, sitting without a jury, determines, by a preponderance of the evidence, that the forfeiture of

the motor vehicle, aircraft, or watercraft will serve one or more of the following purposes:

(1) deterrence of the convicted person from the commission of future offenses under [AS 28.15.291(b),] AS 28.35.030 [,] or 28.35.032;

(2) protection of the safety and welfare of the public;

(3) deterrence of other persons who are potential offenders under [AS 28.15.291(b),] AS 28.35.030 [,] or 28.35.032; or

(4) expression of public condemnation of the serious or aggravated nature of the convicted person's conduct.

* **Sec. 6.** AS 28.40 is amended by adding a new section to read:

Sec. 28.40.080. Impoundment of motor vehicle when arrested for certain offenses. On the arrest of a person for a violation of AS 28.15.291, AS 28.33.030, 28.33.031, AS 28.35.030, or 28.35.032, the motor vehicle used in the commission of the offense shall be impounded. If the motor vehicle is not forfeited, the motor vehicle shall be held for six months, unless the person is acquitted of the offense. The cost of towing and storage of the vehicle is a lien on the vehicle. If another person claims an ownership or security interest in the motor vehicle and establishes that the interest predated the offense and was acquired by the other person in good faith, the vehicle may be released to that other person if the person pays the accrued cost of towing and storage of the vehicle."

REPRESENTATIVE GARDNER objected to Amendment 7.

[10:09:03 AM](#)

CHAIR SEATON said, "This is a question of whether we should have drivers licenses at all." He stated, "It seems to me if we're not going to say there is something more than just saying you're not supposed to drive without your license upon second conviction, we're really saying we shouldn't be issuing a driver's license and we should just let anybody drive."

[10:10:08 AM](#)

REPRESENTATIVE GARA said adding Amendment 7 is up to the committee. Notwithstanding that, he added:

If the person driving the car without a license is the owner, that seems to be the penalty you're getting at. But what if the car is ... owned by somebody who didn't know that the person who was driving it had no license.

REPRESENTATIVE GARA offered an example. He said he thinks there ought to be a defense for the owner of the car who doesn't knowingly provide the car to someone without a license.

[10:11:59 AM](#)

REPRESENTATIVE GRUENBERG opposed Amendment 7. He said he is definitely not in favor of people driving without insurance, without a license, or with a suspended license; however, he indicated that a forfeiture "can be way out of proportion to the seriousness of the offense."

[10:12:46 AM](#)

CHAIR SEATON said, "The forfeiture from someone who is not knowingly involved is not really the case." He said [Amendment 7] covers two issues: the first part deals with the forfeiture issue, and the part of the amendment addressing Section 6 deals with the impoundment of the vehicle. He reminded the committee of several recent driving incidents. One was a couple from Anchor Point killed by a person driving without a license. Even after that accident, a relative loaned the person without the license a car. There was no penalty at all for the person who loaned the vehicle, he said. He stated, "At some point in time, if you're loaning what is basically a deadly weapon on our streets to somebody, you ought to be responsible enough to find out whether that person's entitled to drive."

[10:15:25 AM](#)

REPRESENTATIVE GRUENBERG asked that the two issues in Amendment 7 be considered separately. He asked that "part a" include page 1, line 6, through page 3, line 10, [as numbered on Amendment 7], and that page 3, lines 11-21 [as numbered on Amendment 7] be called "part b."

CHAIR SEATON said, "I will accept that as a division of the question."

REPRESENTATIVE GRUENBERG stated, "Then I will move the question on part a ... as [an] amendment to delete part a."

[Representative Gruenberg moved to adopt Amendment 7a. Representative Gruenberg moved to adopt Amendment 1 to Amendment 7a.]

[10:16:11 AM](#)

CHAIR SEATON said objected to Amendment 1 to Amendment 7a.

[10:16:43 AM](#)

REPRESENTATIVE GARDNER directed attention to page 2, lines 17-20 [as numbered on Amendment 7a]. She said she thinks there needs to be a provision addressing when a defendant is driving a vehicle that is not his own.

[10:17:10 AM](#)

REPRESENTATIVE GRUENBERG said [Amendment 1 to Amendment 7a] would remove the language that Representative Gardner had just highlighted [because it would remove Amendment 7a entirely].

CHAIR SEATON added, "And your issue, like I said, we could clarify, but it's already covered in law."

CHAIR SEATON, in response to a request for clarification from Representative Gatto, said the motion is to delete "everything before Section 6 [as shown in Amendments 7a and 7b]."

[10:17:37 AM](#)

A roll call vote was taken. Representative Gruenberg voted in favor of [Amendment 1 to Amendment 7a]. Representatives Gatto, Gardner, and Seaton voted against it. Therefore, Amendment 1 to Amendment 7a failed to be adopted by a vote of 1-3. [The result of this vote is that the motion to adopt Amendment 7a remains before the committee.]

[10:18:58 AM](#)

REPRESENTATIVE GARDNER said she would like some public testimony on "this provision." She stated, "As a general principle ... I support taking a vehicle away from somebody who persists in using it without a license."

[10:19:35 AM](#)

REPRESENTATIVE GARA directed attention to page 2, lines 17-19, [as numbered on Amendment 7a], and said it seems the court currently has the discretion to order a forfeiture for driving without a license, so "maybe that's the way it should be." He recommended having the mandatory impoundment provision that is in [Amendment 7b], but not to have mandatory forfeiture in all cases. He offered further details.

[10:20:43 AM](#)

CHAIR SEATON responded, "I think that that would have been the effect of Representative Gruenberg's motion."

[10:21:46 AM](#)

CHAIR SEATON asked for unanimous consent to rescind the committee's action in failing to adopt [Amendment 1 to Amendment 7a, which would have deleted the entire language of Amendment 7a]. There being on objection, it was so ordered [and Amendment 1 to Amendment 7 was before the committee.]

[10:22:17 AM](#)

REPRESENTATIVE GATTO said he would like the bill held over in order to leave time for the public to testify.

[10:22:38 AM](#)

CHAIR SEATON announced that HB 347 was heard and held.

ADJOURNMENT

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at [10:22:46 AM](#).