

MINUTES
SENATE FINANCE COMMITTEE
February 15, 2006
9:07 a.m.

CALL TO ORDER

Co-Chair Lyda Green convened the meeting at approximately [9:07:45 AM](#).

PRESENT

Senator Lyda Green, Co-Chair
Senator Gary Wilken, Co-Chair
Senator Con Bunde, Vice Chair
Senator Fred Dyson
Senator Bert Stedman
Senator Lyman Hoffman
Senator Donny Olson

Also Attending: SENATOR CHARLIE HUGGINS; JOSHUA TEMPEL, Staff to Senator Charlie Huggins; HEATHER BRAKES, Staff to Senator Gene Therriault; JOHN WILKINS, Volunteer Director, Disabled American Veterans, Department of Alaska; CLAYTON LOVE, Commander, Disabled American Veterans, Department of Alaska; HOWARD COLBERT, Commander, Disabled American Veterans Chapter No. 4, Juneau; ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law; SUSAN PARKS, Deputy Attorney General, Criminal Division, Office of the Attorney General, Department of Law; CHRIS CHRISTENSEN, Deputy Administrative Director, Office of the Administrative Director, Alaska Court System

Attending via Teleconference: From an Offnet Site: DOUG GRIFFIN, Director, Alcohol Beverage Control Board, Department of Public Safety; ED HERRINGTON, Captain, Alaska State Troopers, Department of Public Safety

SUMMARY INFORMATION

SB 209-UNDERAGE MILITARY ON LICENSED PREMISES

The Committee heard from the bill's sponsor, the Alcohol Beverage Control Board, and representatives of Disabled Veterans of America. The bill reported from Committee.

SB 210-VIOL. OF ALCOHOLIC BEV. LAWS/FORFEITURE

The Committee heard from the bill's sponsor, the Alcohol Beverage Control Board, the Department of Law, and the Department of Public Safety. The bill was held in Committee.

SB 237-ADDITIONAL JUDGES FOR THIRD DISTRICT

The Committee heard from the bill's sponsor, the Department of Law, and the Alaska Court System. The bill was held in Committee.

#sb209

CS FOR SENATE BILL NO. 209 (JUD)

"An Act relating to access by persons under 21 years of age to premises licensed to sell alcoholic beverages as clubs when alcoholic beverages are not present and, when alcoholic beverages are present, to premises of a patriotic organization licensed as a club if the person possesses a valid active duty military or armed forces identification card issued by the United States government."

This was the first hearing for this bill in the Senate Finance Committee.

JOSHUA TEMPEL, Staff to Senator Charlie Huggins, the bill's sponsor, read the Sponsor Statement as follows.

Senate Bill 209 amends AS 04.11.110(g) by authorizing access by persons under 21 years of age, who possess a valid military active duty (or armed forces identification card issued by the United States Department of Defense or the United State Department of Homeland Security) ID card, to a club's licensed premises without specific authorization of the Alcoholic Beverage Control Board in certain circumstances.

Under present state law, persons under the age of 21 cannot be on any premises that are licensed to sell alcoholic beverages unless a parent or legal guardian accompanies them. Current law causes a dilemma to the under age veteran. Although they are eligible to join an organization, they are unable to go to the veteran's meetings or functions because they are under age.

This legislation will, in no way, allow the consumption of alcoholic beverages by persons under the age of 21 in licensed clubs. This bill will simply allow our troops access to the supportive and safe environments which they currently are not

allowed. A military organization post will truly be a place where veterans across the generations will have an accepting atmosphere in which they can impart their wisdom and stories. This bill will help ensure a place of safety for our troops while they are on the home front.

Senator Bunde asked whether the military organizations being referred to would include such entities as the American Legion.

Mr. Tempel affirmed. He noted that the bill packet includes memorandums from both the Alcoholic Beverage Control (ABC) Board and the Division of Legal and Research Services, Legislative Affairs Agency [copies on file] that specify the licensed premises being referred to in this legislation would be patriotic organizations such as the American Legion, the Disabled American Veterans (DAV), and the Veterans of Foreign Wars (VFW). It could not be "broadened" to include such entities as strip clubs.

Senator Bunde, noting that the bill would allow people below the legal drinking age to enter licensed alcoholic beverage establishments, asked whether this action would place additional "pressure on bartenders in these clubs" to determine which attendees could or could not be served alcohol. He asked whether the affected establishments have weighed in on this issue.

Mr. Tempel responded that the establishments understand the conditions of the bill and would uphold their responsibilities as otherwise, their alcohol licenses could be in jeopardy. Testimony from those entities would be forthcoming.

Senator Bunde agreed that an establishment's alcohol dispensary license could be in jeopardy were a mistake made and an alcoholic beverage dispensed to an under age person.

Senator Stedman reminded that in previous times, there was no issue with underage soldiers being allowed in establishments in which liquor was sold. However, that situation has changed. Continuing, he asked what prompted the need to introduce this legislation. He had "no problem with the whole issue. Someone that's old enough to serve in the military and go to Iraq certainly should have the maturity to go into these establishments and have some camaraderie" whether or not alcohol was being sold.

SENATOR CHARLIE HUGGINS, the bill's sponsor, stated that the reality is that an underage soldier at Fort Richardson, Alaska for instance, who wanted an alcoholic beverage could get it. That is "just the way it is."

In response to Senator Stedman's comments, Senator Huggins stated "service organizations see themselves as two-fold". They are a "fraternal organization that supports quite frankly an older generation of people" and participates in its community. Their other major duty is to reach out to young military people in the community who might not have family or another support group there. Continuing, he noted that the issue is that, due to alcoholic licensing conditions, were such an organization to participate in a Veterans Day Dinner, for example, it would be "illegal for an underage person" to be on the establishment's licensed premises unless they were accompanied by their legal guardian or parent. This legislation would eliminate that licensing "technicality".

Senator Huggins affirmed that the affected service organizations fully understand their responsibilities were this legislation adopted. This legislation was introduced in order to allow underage soldiers to participate in a patriotic environment that could offer them support.

Senator Olson asked how the restrictions on serving alcohol to underage individuals would be monitored.

Senator Huggins stated that in order to be served an alcoholic beverage an individual would be required to present age identification. It would be likely that an organization's identification provisions would become "more stringent" were this legislation adopted.

[9:16:54 AM](#)

Senator Stedman asked for confirmation that the bill would allow underage soldiers to enter an establishment, but would not allow them to be served alcohol.

[9:17:36 AM](#)

Senator Huggins affirmed. The purpose of the bill would be to allow underage military personnel to participate in an organization that could offer support and camaraderie, not to allow them access to alcohol.

Senator Stedman acknowledged. Continuing, however, he opined that, "if you are 18 or 19 and you're old enough to go to Iraq and die for your country you're old enough to go have a beer."

[9:18:09 AM](#)

DOUG GRIFFIN, Director, Alcohol Beverage Control Board, Department

of Public Safety, testified via teleconference from an offnet site. To further respond to the concern about the responsibilities that would be placed on a licensed establishment by this legislation, he assured that service organizations are aware of the situation and would be taking extra precautions. It is "a tradeoff". On one side is the point about these people serving their country and needing a place for camaraderie and on the other side is the need to ensure that establishments uphold the requirement not to serve alcohol to underage people. Efforts could be taken to ensure that the actions proposed by this legislation would work.

Co-Chair Green asked for clarification as to whether the law being changed is one that prohibits people under the age of 21 from being in an establishment that sells alcohol or whether the law prohibits people under the age of 21 from belonging to such an organization.

Mr. Griffin clarified the issue is that because the clubs have a beverage dispensary license, they must adhere to the same regulations as a bar and restrict those under the age of 21 from the premises unless a legal guardian or spouse age 21 or older accompanied them. This bill would alter that standard. The ABC Board has "no jurisdiction over membership". People under the age of 21 could belong to the organizations. He noted that changes to ABC standards are not uncommon, as restrictions on licensed premises that offer dining have been altered to allow people under the age of 21 to dine there.

[9:20:48 AM](#)

Senator Stedman asked whether the bill could be expanded to allow the military individuals identified in this legislation to be able to consume alcohol at the age of 19 in these patriotic establishments. "The whole issue" of how a person in the military who is under the age of 21 "is handled ... in our own country ...is egregious".

Mr. Griffin regarded the drinking age discussion as being a "broader issue". As the result of "federal suggestions", states adopted 21 as their legal drinking age in the 1980s. Federal highway funding and other federal aid could be negatively affected were a state to lower that federally "recommended" allowable drinking age. There is a "great deal of uniformity on this matter nationwide.

[9:22:35 AM](#)

Senator Bunde asked whether a soldier must be 21 years old to consume alcohol in a club on a military base.

Senator Huggins affirmed that a soldier must be 21. At one time, there was an exception in regards to the consumption of beer with a 3.2 percent alcoholic content.

Senator Bunde understood therefore that the military has a 21-year age requirement as well. The issue of changing the age at which a person could legally consume alcohol would be an issue beyond the realm of the ABC Board.

Senator Huggins noted that in recent time, such things as the once popular after work Happy Hour events and clubs on military bases have disappeared. He also noted the fact that a Driving Under The Influence (DUI) offense on one's record would be detrimental to a career in the military. Thus, events that promoted drinking have been curtailed.

AT EASE 9:24 AM / [9:24:45 AM](#)

Vice Chair Bunde assumed Chair of the meeting.

[9:25:19 AM](#)

JOHN WILKINS, Volunteer Director, Disabled American Veterans (DAV), Department of Alaska informed the Committee that his responsibilities include overseeing the work of four service officers who are compensated by the State of Alaska as well as seven chapter service officers who are volunteers like himself. Their work would include such things as assisting veterans with claims against the federal Veterans Administration. He noted that a service referred to as VetBoat utilizes a boat to travel to small communities in Southeast Alaska to assist veterans in those communities.

Mr. Wilkins stated that DAV supports this legislation. He conveyed that he had sought assurance from post commanders that "stringent" procedures would be established in their licensed establishments to insure "that no underage military person would be allowed to drink".

[9:26:34 AM](#)

Mr. Wilkins stated that the adoption of this legislation would allow "service officers to talk more freely with the young people that are back about any problems that they may have. Not allowing them into clubs and organizations" has made service officer jobs more difficult, and has prevented allowing young veterans from talking with service officers. He characterized the role of the

service officers as being "a mentoring situation" in which older soldiers assist young military personnel in dealing with such things as combat issues.

Mr. Wilkins stated that passage of this legislation would be appreciated.

[9:27:54 AM](#)

CLAYTON LOVE, Commander, Disabled American Veterans, Department of Alaska, concurred with Mr. Wilkins' comments. He declared that this legislation would not significantly impact bartenders; they would simply be required to monitor activities "more closely". Rules would be established. For instance, were people under the age of 21 to have consumed a drink prior to coming to an establishment, their entry would be denied.

Mr. Love stated that the benefit of this bill would be to allow all members of an organization to participate in events such as dinners that might be held in the establishment.

[9:29:27 AM](#)

Mr. Love continued that this legislation would allow younger soldiers to benefit from the camaraderie and the experiences of the older soldiers including combat experiences, injuries, and re-adjusting to civilian life. Furthering this legislation would also indicate State support for young military personnel.

[9:31:42 AM](#)

HOWARD COLBERT, Commander, Disabled American Veterans (DAV) Chapter No. 4, Juneau, informed the Committee that when Congress established the DAV, it specified in Statute that no alcoholic beverages could be consumed in their meeting rooms. DAV has a very limited budget and, as it does not have its own facilities, it must conduct meetings in places such as public libraries. However, the limited availability of such space is a hardship on the organization. Consequently, benevolent organizations such as the American Legion and VFW have allowed DAV to hold its meetings and complete required paperwork for veterans with disabilities in their facilities. Continuing, he noted that due to the current age restrictions on licensed patriotic establishments, providing assistance for disabled veterans under the age of 21 is burdensome.

Mr. Colbert likened the wisdom that older veterans could impart to a library: "they are a wealth of knowledge". Continuing, he noted that VFW and American Legion posts are well managed. Of the State's

72,000 veterans, 14,000 live in Southeast Alaska. The VetBoat that transits to communities in Southeast Alaska has completed paperwork for 459 veterans with disabilities over the past six years; most of that paperwork was completed in VFW or American Legion halls. As the State's veterans age, they will be experiencing more problems and locations must be available in which to conduct the required paperwork.

Mr. Colbert, who had completed two tours of Vietnam, communicated that being a young veteran is "a whole different world". The veterans in the various patriotic organizations "do understand and they do talk. That is a lot of help for the younger guys." While a multi-age family could currently dine in a restaurant with an alcoholic beverage license, an underage veteran who has served his country could not currently enter a VFW Hall without the bar being closed down. "That doesn't make sense to me." These "very very fine young" veterans have earned the right to enter these patriotic establishments.

[9:36:34 AM](#)

Senator Bunde surmised that when Mr. Colbert served in Vietnam, no identification had been checked when beer rations were distributed.

Mr. Colbert affirmed.

[9:36:54 AM](#)

Senator Bunde thanked the gentlemen for their service.

RECESS TO THE CALL OF CHAIR [9:37:12 AM](#) / [10:21:33 AM](#)

Co-Chair Green resumed Chair of the Committee.

Co-Chair Wilken moved to report the bill from Committee with individual recommendations and accompanying fiscal notes.

There being no objection, CS SB 209(JUD) was REPORTED from Committee with previous zero fiscal note #1 from the Department of Military and Veterans Affairs.

[10:22:16 AM](#)

#sb210

SENATE BILL NO. 210

"An Act relating to the manufacture and transportation of alcoholic beverages; relating to forfeitures of property for

violations of alcoholic beverage laws; and relating to violations of alcoholic beverage laws."

This was the first hearing for this bill in the Senate Finance Committee.

HEATHER BRAKES, Staff to Senator Gene Therriault, the bill's sponsor, read the history and intent of the bill as specified in the Sponsor Statement.

In 2004, Congress passed legislation recognizing that many rural communities and their residents "...face the highest alcohol abuse and family violence rates in the country." and establishing the Alaska Rural Justice and Law Enforcement Commission. The Commission released a Draft Interim Report in late 2005 that contained recommendations, including amendments to several provisions in Alaska Statutes.

Senate Bill 210 changes current law to help law enforcement better protect communities that have chosen to limit the sale or possession of alcohol under local option laws. First, Senate Bill 210 strengthens current forfeiture provisions in statute by allowing seizure of alcohol transported by common carrier in violation of current law. Second, it authorizes the seizure of property determined to have been purchased or obtained through the proceeds of illegal importation or sale of alcohol and outlines procedures for a person claiming an interest in property that has been seized.

SB 210 also defines "manufacture" of alcohol and provides consistency between statutes by amending the allowable quantities. While current statute prohibits the manufacture of alcohol in a community that has adopted a local option, it does not include a definition. The legislation also clarifies statutes relating to the presumption of possession for sale. These provisions provide clarity and assist law enforcement and communities in their continued interdiction efforts in damp or dry areas of the state.

More than 100 communities in Alaska have chosen a local option to combat the problems associated with alcohol abuse and violence. SB 210 clarifies, strengthens, and brings uniformity to the state's alcohol and beverage control statutes to assist law enforcement and communities to fight the illegal importation of alcohol.

Ms. Brakes noted that the bill would address inconsistencies in

State Statutes retaining to the presumption of guilt, specifically that were a person to have in their possession more than 10.5 liters of alcohol, an intent to sell could be presumed.

Ms. Brakes noted that, as specified on page eight of the Alaska State Troopers Alaska Bureau of Alcohol and Drug Enforcement 2004 Annual Drug Report [copy on file], "bootlegging is a very lucrative business in Rural Alaska." Page seven of the report specifies that 681 gallons of alcohol were seized in 2004. A graph on that page also depicts the number of alcohol related arrests conducted during the years 2002, 2003, and 2004.

[10:25:54 AM](#)

Co-Chair Green understood that the provisions included in this legislation were based on the Alaska Rural Justice and Law Enforcement Commission's report.

Ms. Brakes affirmed that the bill was based on determinations made in the Commission's Draft Report.

[10:26:02 AM](#)

Senator Olson asked regarding the decision to lower the alcohol possession limit from the current 12 liter limit to 10.5 liters.

[10:26:24 AM](#)

Ms. Brakes responded that the decision to specify 10.5 liters as the possession limit was made in order to have consistency in regulations. An existing separate section of State Statute specifies that the transportation of more than 10.5 liters of distilled spirits into a local option community would be a felony.

Co-Chair Green understood therefore that lowering the possession limit would align that regulation with amounts specified in other State law.

In response to a question from Senator Olson, Ms. Brakes confirmed that the 10.5 liter specification is included in other State law.

[10:27:12 AM](#)

Senator Bunde asked for an example of what would constitute 10.5 liters, as alcohol is available in a variety of container sizes.

DOUG GRIFFIN, Director, Alcohol Beverage Control Board, Department of Public Safety, testified via teleconference from an offnet site

and stated that 10.5 liters of distilled spirits is the amount that a package store could legally ship to a person each month. This limit has been specified in State Statute for several years. 10.5 liters would equate to a case of six 1.75 liter bottles.

Mr. Griffin continued that a case of twelve 750 milliliter (ML) bottles, or "fifths", would total nine liters.

[10:28:48 AM](#)

Senator Bunde appreciated the information. It would assist in physically understanding the amounts being discussed.

ED HARRINGTON, Captain, Alaska State Troopers, Department of Public Safety, testified via teleconference from an offnet site and noted that he was a member of the Alaska Rural Justice and Law Enforcement Commission and had participated in the development of the recommendations to change State Statutes.

Captain Harrington informed the Committee that the Troopers Drug Unit had seized approximately 994 gallons of alcohol in 2005. That was a significant increase over 2004. The changes proposed in this bill would further assist law enforcement efforts to enforce the local option laws of "those communities that have elected to restrict the flow of alcohol to their communities".

Senator Olson asked whether the proposed provisions would affect air taxi services that serve the communities.

[10:30:21 AM](#)

Captain Harrington understood that the changes proposed in this bill would not affect air carriers. The effort would enable law enforcement officers to seize alcohol illegally transported on common carriers. That option has not always been available in the past. Subsequent court proceedings would transpire in regards to the forfeiture of the alcohol.

Senator Olson stated that more "concrete" information would be desired in regards to whether air taxi service aircraft could be confiscated as a result of these provisions.

Co-Chair Green asked whether this legislation would change existing regulations pertaining to "the transporter of the product".

Captain Harrington understood that nothing in that regard would be altered. Any language in the bill pertaining to transportation would relate specifically to the transportation of alcoholic

beverages transported by a common carrier. There was no intent to affect air taxi services that transport the alcohol to communities. While privately owned aircraft involved in the importation of alcoholic beverages have been seized, no common aircraft have been.

[10:32:48 AM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section-Juneau, Criminal Division, Department of Law, affirmed Captain Harrington's remarks. "This bill does not change the definition of common carrier for our bootlegging statutes."

[10:33:11 AM](#)

Senator Olson understood therefore that "a common carrier aircraft would not be confiscated even if they knowingly carry alcohol into the villages."

Ms. Carpeneti stated that this bill would specifically allow "the alcohol on common carriers sent in violation of the bootlegging laws to be seized and forfeited." The bill would not "address the seizure of the aircraft itself".

[10:33:46 AM](#)

Senator Olson acknowledged.

Senator Olson asked for further explanation of language in Sec. 2(a)(6) page 3, line 3 that reads "or items of value purchased from the proceeds".

(6) money, securities, negotiable instruments, or other things of value used in financial transactions or items of value purchased from the proceeds derived from actively prohibited under AS 04.11.010 or in violation of a local option adopted under AS 04.11.491.

New Text Underlined

[10:33:56 AM](#)

Ms. Carpeneti understood that the language would pertain to such things as snowmachines and other items that bootleggers might purchase with the proceeds of their operation.

Senator Bunde asked what proof would be required in those cases.

Ms. Carpeneti responded that like other situations, evidence would

be required to support the claim that the item "was purchased with funds" generated from bootlegging operations. The burden of proof must be supported by a "preponderance of evidence in a civil action."

In response to a comment from Senator Bunde, Captain Harrington affirmed that 994 gallons of alcohol from bootleg operations had been seized in 2005.

Senator Bunde calculated that the bootleg profit generated from that amount of alcohol could amount to \$300,000.

Captain Harrington thought that would be correct.

In order to better understand the profits made by bootleggers, Senator Bunde asked for examples of items that bootleggers might have purchased.

[10:36:05 AM](#)

Captain Harrington communicated that in his experience, "it's fairly common for people that are involved in bootlegging in the Rural communities to be fairly wealthy by community standards." Active bootleggers typically spend "a lot of their money on conveyances" such as boats, snowmachines, jet skis, "and other more expensive toys". In a case in Kotzebue, an investigator followed a bootlegger from the airport where he loaded alcohol into a vehicle, then drove to a beach and loaded it into a boat to transport to a local option village. In that case, both the vehicle and boat were seized. When a search warrant was obtained, brand new snowmachines and other boats were found. Generally, the interview process would provide evidence that the person had used the proceeds from the bootlegging effort to purchase that equipment. Law enforcement officers could then seize those items for forfeiture in the court proceeding.

[10:37:44 AM](#)

Senator Bunde asked for an estimate of the money that might have been generated by bootleg operations in the past year.

[10:37:55 AM](#)

Mr. Harrington responded that drugs and alcohol totaling approximately one million dollars had been seized in 2004. He had no individual data specific to alcohol.

[10:38:45 AM](#)

Senator Olson continued to question the language in Sec. 2(a)(6) pertaining to the process of seizing items purchased with the proceeds generated from bootlegging operations, specifically whether a person's house could be confiscated.

Ms. Carpeneti regarded the seizing of a house as being "highly unlikely" unless it was "an extreme case where a bootlegger bought a house solely from money obtained from bootlegging profits." Evidence must be presented to prove that. No house has ever been confiscated.

Senator Olson stated that the law in this regard, rather than the practicality of such a thing to occur, was the gist of his question. Continuing, he asked whether this legislation would allow for the confiscation of a \$100,000 home that a person had purchased with the help of \$10,000 generated from the person's bootleg operation.

Ms. Carpeneti responded that she did not believe that that house could be confiscated.

Senator Olson asked whether that opinion could be confirmed.

Ms. Carpeneti expressed that the house would not be confiscated since bootlegging operations did not generate the majority of the funding used in the purchase.

Senator Olson surmised however that the bill's language would allow for someone's house to be confiscated.

Ms. Carpeneti opined that, rather than it allowing for the confiscation of the house, "it might allow for confiscation of an interest in the house".

[10:40:28 AM](#)

Senator Bunde concluded that were a bootlegger with no other source of income to purchase a home, it might "be possible" that that home could be forfeited.

Ms. Carpeneti expressed that evidence presented in the court proceedings would have to prove that "all that money that was used to purchase that house was derived from illegal transportation of alcohol". She could not recall this ever having happened.

Senator Bunde remarked that were a person with no other source to purchase a snowmachine, that machine could be confiscated.

Therefore, were a person with no other source of income to purchase a house, the house should be treated in the same manner.

Co-Chair Green understood that the bill included new language through which a person whose possessions were subject to confiscation could respond and "lay out their case".

Ms. Carpeneti affirmed. A civil lawsuit would be conducted in which the State must present burden of proof and the accused would be provided "the opportunity to make a defense". The case would be decided based on those facts. In other words, forfeiture would not be automatic.

[10:42:25 AM](#)

Senator Olson voiced being uncomfortable with the broad powers presented in this legislation.

[10:42:35 AM](#)

Senator Hoffman asked regarding the anticipated increase in convictions that might transpire as the result of this legislation.

[10:42:57 AM](#)

Captain Harrington was hesitant to respond as that is an unknown. However, he allowed that the reduction of the possession limit to 10.5 liters might result in a few additional cases during the year. Overall, he thought that the increases would not be "substantial".

Senator Hoffman stated that the purpose of his question was to determine whether this legislation would assist "in stemming the flow of alcohol to dry communities".

Captain Harrington stated that lowering the possession limit to 10.5 liters is a benefit, as it "would clear up the confusion between law enforcement and the Department of Law and the citizens in general" because of the differences that exist in current Statutes.

Captain Harrington informed the Committee that 750 ML bottles are the most commonly shipped size of distilled spirits. Reducing the allowable transportation limit from 12 liters to 10.5 liters would result in "essentially" a two bottle reduction. He did not anticipate this change to increase law enforcement arrest numbers. Therefore, the benefit of the legislation would be the removal of the confusion with the conflicting statutes.

Senator Hoffman understood, therefore, while the bill would streamline statutes, it might only result in three or four more prosecutable cases. "The vast majority of the problem would still exist."

Captain Harrington affirmed that while the bill would streamline statutes, it would result in fewer than "50 additional cases through the course of a year".

Co-Chair Green pointed out that the language in Sec. 2(a)(6) is identical to language in AS 17.30.116, which pertains to drug forfeitures.

[10:45:55 AM](#)

Senator Hoffman stated that he has been working on efforts to stem the flow of alcohol into communities since the 1980s, and that he would be supporting this legislation. Continuing, he stressed that there is "no silver bullet" through which to address the situation. The abuse of alcohol "is a major cause of problems in Rural Alaska".

Co-Chair Green remarked "as with many substances that people abuse, all the efforts in the world don't necessarily address the heart of the problem which is the hearts of people and the minds of people to make better choices."

Co-Chair Green asked Senator Olson whether he would desire to hold the bill in Committee in order to further address his concerns.

[10:47:04 AM](#)

Senator Olson suggested that a conceptual amendment to exclude a person's primary residence from forfeiture be considered in regards to Sec. 2(a)(6).

Ms. Carpeneti amended her earlier remarks to clarify that a process does currently exist in regards to the seizure of a person's residence due to a situation associated with a marijuana growing operation. As she was unaware of the outcome of that case, further information on that issue could be provided.

Co-Chair Green ordered the bill HELD in Committee for further consideration.

[10:49:16 AM](#)

#sb237

CS FOR SENATE BILL NO. 237(JUD)

"An Act increasing the number of superior court judges designated for the third and fourth judicial districts to provide additional superior court judges at Anchorage, Palmer, Kenai, and Fairbanks; and providing for an effective date."

This was the first hearing for this bill in the Senate Finance Committee.

Co-Chair Wilken moved to adopt committee substitute, Version 24-GS2077\F as the working document.

There being no objection, the Version "F" committee substitute was ADOPTED as the working document.

Co-Chair Green pointed out that the original version of this bill solely addressed increasing the number of superior court judges. The Version "F" committee substitute would expand the bill to address the compensation of justices and judges. Currently the salaries of judges are ranked 47th in the nation.

[10:50:32 AM](#)

SUSAN PARKS, Deputy Attorney General, Criminal Division, Office of the Attorney General, Department of Law, reviewed the history of the bill. After visiting various judges throughout the State, the State's Attorney General "was struck by consistently hearing how the criminal justice system seemed to be getting bogged down." Cases were taking a long time to get to trial due to insufficient amounts "of judge time" or "courtroom time to keep the process moving." The Attorney General subsequently met with the Alaska Court System, the Governor's Office, and the Commissioner of the Department of Administration, who supervises the Public Defender Agency (PDA) and the Office of Public Advocacy (OPA). The request for additional Superior Court Judges was the result of that meeting.

Ms. Parks noted that the original version of this bill requested four additional Superior Court Judges; however the increase of six judges, as proposed in Version "F", is agreeable to the Alaska Court System.

Ms. Parks noted that a multitude of factors have impacted the processing of criminal cases. Cases have become more complex, more parties are involved, and new technology and increased expert testimony have served to slow down the pretrial process. In

addition, the number of crimes being prosecuted has increased. Over the past decade, felony referrals have increased 64-percent whereas misdemeanor referrals have only increased 15-percent. The increase in felony crime "coupled ... with the increased complexity" involved in getting these cases to trial" has contributed to the current situation.

Ms. Parks noted that the Palmer Court System has been identified as the number one priority. A "crime explosion" has accompanied "the population explosion" in Palmer. In the year 2002, the Palmer Court System experienced 595 felony referrals; there were 869 felony referrals in the year 2005. Caseloads continue to increase. Due to the increase, night and weekend courts have been added in order to accommodate the caseload. "Cases are taking an incredible amount of time to get to trial." An increase in bigger and more complex cases such a homicides has exacerbated the problem. She noted that additional information could be provided. She also noted that Anchorage has 279 felony cases "pending trial, 82 of which are over a year old". Of the total trials pending, 28 are murder cases. The delay being experienced is an indicator that "the system isn't serving the public, it isn't serving victims..."

Senator Olson, referencing language in Sec. 6 page 2, lines 27 through 31, asked for further information about which districts would be receiving additional judges.

Ms. Parks responded that "certain areas of the State" have not been as affected by caseload increase as others. The increased criminal load is being experienced in more populated, urban areas.

Senator Hoffman noted that during a recent presentation to the Legislature, the State's Chief Justice stated that even though the number of judges specified for the Bethel Court District has been increased, the Court System has been unable to fill positions due to the salary being offered. To that point, he asked whether that issue would be addressed by this legislation, as otherwise that position might remain vacant. The Bethel Court has a backlog of cases.

CHRIS CHRISTENSEN, Deputy Administrative Director, Office of the Administrative Director, Alaska Court System agreed "that Bethel is a tremendous problem".

[10:57:20 AM](#)

Mr. Christensen stated that the judge position has been vacant for nine months, and could be vacant for as long as two years. Judges from Fairbanks are currently on rotation to Bethel in order to

address the Bethel cases. In addition, two judges "have been asked to come out of retirement in order to each spend one or two weeks a month in Bethel. The rotation of judges "is not good for the community."

Mr. Christensen stated that the determination is that the difficulty in hiring a judge for the Bethel Court is due to the salary being offered. "Rural judges get a dramatically lower geographic adjustment than any other State employee. The geographic adjustment is so low in fact that judges in Rural Alaska are not even the highest paid government lawyers anymore." For example, last year in Nome, the local district attorney made \$20,000 a year more than the local Superior Court judge. Until approximately 1990, those judges were paid the same as federal district judges. Now those State judges are making 40 percent less than the federal judges. This is not conducive to attracting judges to the area.

Mr. Christensen stated that this bill would provide salary adjustments for State judges. While it would make a State Supreme Court judge's salary comparable to a federal District Court judge, a State Superior Court Judge's salary would not be increased to that level. Nonetheless, the proposed salary schedule would "go a long way" to addressing the issue not only in Rural Alaska, but Statewide.

Senator Dyson asked the percentage of a Superior Court judge's caseload related to civil cases.

Mr. Christensen responded that approximately 25 percent of the current caseloads are felonies, five percent relate to juvenile delinquency matters; "everything else would be technically civil cases". 25 percent of those would be family law cases such as divorces and custody issues.

[10:59:52 AM](#)

Co-Chair Wilken affirmed that the Fairbanks Court System does support Bethel.

Co-Chair Wilken, voicing support for the legislation, recalled that a similar discussion had occurred the previous Session in regards to the difficulty in recruiting State Department Commissioners. Subsequently the salary range for those positions was increased. The issue now would be to address judiciary needs. To that point, he would be "prepared" to fund this endeavor by decreasing other operating budget components.

[11:00:49 AM](#)

Senator Stedman characterized himself as being "more cautious than" Co-Chair Wilken. In order to better understand the overall impact of the legislation, he suggested that the Department of Administration should provide a fiscal note pertaining to the PDA and the OPA. The Department of Public Safety should also provide a fiscal note.

Senator Stedman stated that this legislation would pertain to two issues: one being the increase in the number of judges and the other being the salary adjustments. There is "a definite need for the salary adjustments."

Senator Stedman stated that, with the adoption of SB 141 the previous Legislative Session, a determination should be made as to whether this and other similar legislation would be subject to actuarial analyses, as he anticipated that the adoption of this legislation would impact the State's retirement system. The issue should be addressed in order to avoid conflict with SB 141 provisions.

Senator Stedman also voiced concern in regards to "the timing" of the FY 07 budgets, specifically the operating budget. Additional positions would be added when there are already several vacant ones. The adoption of this and similar legislation would impact the FY 07 budget. He acknowledged Co-Chair Wilken's comment that the funds needed for these salary increases could be derived by decreasing funds to other components in the Operating Budget.

[11:03:23 AM](#)

Co-Chair Green asked whether funding for the Kenai Courthouse expansion was requested in the FY 07 Capital Budget.

Mr. Christensen indicated that it was not.

[11:03:58 AM](#)

Ms. Parks remarked that the act of increasing the number of judges would not result in an increase of Court cases. While the workload would not increase, there would be additional expenses associated with the increase in the number of courtrooms that would be operated. Nonetheless, there would be an increase in efficiencies. Expenses are incurred each time a case is postponed: the attorney must revisit the information each time and witnesses must be re-contacted.

[11:04:50 AM](#)

Senator Hoffman asked the status of the Courthouse expansions that had been authorized the previous year, as he understood that construction costs had increased dramatically.

Co-Chair Green confirmed that there "certainly have been cost overruns in the bids". This issue would be re-addressed as the budgets are being developed.

Co-Chair Green also noted that the fiscal notes requested by Senator Stedman would be developed and that other matters requiring clarification would be addressed.

AT EASE [11:06:28 AM](#) / [11:06:37 AM](#)

Co-Chair Green ordered the bill HELD in Committee.

#

ADJOURNMENT

Co-Chair Lyda Green adjourned the meeting at [11:06:43 AM](#)