

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 13, 2005

10:04 a.m.

**MEMBERS PRESENT**

Senator Charlie Huggins, Vice Chair  
Senator Gene Therriault  
Senator Hollis French  
Senator Gretchen Guess

**MEMBERS ABSENT**

Senator Ralph Seekins, Chair

**COMMITTEE CALENDAR**

SENATE BILL NO. 140

"An Act relating to spyware and unsolicited Internet advertising."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 140

SHORT TITLE: BAN INTERNET SPYWARE

SPONSOR(S): SENATOR(S) THERRIAULT

03/10/05	(S)	READ THE FIRST TIME - REFERRALS
03/10/05	(S)	L&C, JUD
03/22/05	(S)	L&C AT 1:30 PM BELTZ 211
03/22/05	(S)	Heard & Held
03/22/05	(S)	MINUTE(L&C)
03/24/05	(S)	L&C AT 2:00 PM BELTZ 211
03/24/05	(S)	Moved SB 140 Out of Committee
03/24/05	(S)	MINUTE(L&C)
03/29/05	(S)	L&C RPT 3DP
03/29/05	(S)	DP: BUNDE, DAVIS, STEVENS B
04/07/05	(S)	JUD AT 8:30 AM BUTROVICH 205
04/07/05	(S)	Scheduled But Not Heard
04/08/05	(H)	JUD AT 8:00 AM CAPITOL 120
04/08/05	(S)	Scheduled But Not Heard
04/13/05	(H)	JUD AT 8:30 AM BUTROVICH 205

**WITNESS REGISTER**

Mr. Ben Edelman, Student  
Harvard University

**POSITION STATEMENT:** Commented on SB 140

Mr. Curtis Clothier, Data Processing Manager  
Legislative Affairs Agency  
Alaska State Capitol  
Juneau, AK 99801-1182

**POSITION STATEMENT:** Delivered a Powerpoint presentation on  
Spyware for SB 140

#### **ACTION NARRATIVE**

**VICE-CHAIR CHARLIE HUGGINS** called the Senate Judiciary Standing Committee meeting to order at [10:04:56 AM](#). Present were Senators French, Therriault, Guess and Vice-Chair Huggins.

#### **SB 140-BAN INTERNET SPYWARE**

VICE CHAIR CHARLIE HUGGINS announced SB 140 to be up for consideration.

[10:05:23 AM](#)

SENATOR GENE THERRIAULT introduced SB 140 and asked Mr. Ben Edelman to explain how Spyware works.

MR. BEN EDELMAN, student, Harvard University, informed the Senate Standing Judiciary Committee Spyware has become a serious problem. Some companies do bona fide spying by tracking your email address and purchases. Users have a commercial purpose and they track what a person does on the internet for the purpose of showing pop up ads, often for competitors of the site that is being viewed.

[10:08:25 AM](#)

SB 140 focuses on this type of software. Spyware pop up ads are equivalent to a Wal-Mart employee coming into a Target store and trying to get the customers to shop at Wal-Mart instead. Other Legislatures have taken up the issue, California being the most well known example. They passed a bill, which names a dozen specific tactics, which they prohibit.

[10:10:33 AM](#)

There are a couple of bills pending in U. S. Congress. Representative Bono of California introduced a bill that bans bad practices. Utah passed legislation similar to SB 140 but the

language should have been drafted more tightly because the Utah court ruled the bill unconstitutional.

[10:12:24 AM](#)

Software companies think they do not need government oversight. Currently they are not well regulated and they want to keep it that way so their objections to legislation of any type are intense. Yahoo, for example, makes money by selling ads on websites.

[10:13:42 AM](#)

SB 140 regulates unfair competition by making it illegal to design confusing pop up ads. Enforcement is entirely possible because violators are easy to find.

[10:15:13 AM](#)

SENATOR THERRIAULT asked Mr. Edelman his credentials.

MR. EDELMAN responded he is a student at Harvard University working for his Ph.D. on economics and finishing law school. In his spare time he tests Spyware and writes about his findings. He has served as an expert in some litigation against Spyware companies.

SENATOR THERRIAULT asked Mr. Edelman to comment on the wording on Page 2, lines 11-12.

MR. EDELMAN suspected the drafter was trying to get at the company who claims not to know they were purchasing the Spyware.

[10:21:33 AM](#)

CURTIS CLOTHIER, data processing manager, Legislative Affairs Agency, provided an overview of Spyware. The following is a Powerpoint presentation entitled: Spyware 101.

Definition of Spyware:

- Software that collects personal information, or makes changes to your computer without your knowledge or consent.

Occurrences of Spyware:

- 2003 2 out of 100 support calls concerned Spyware.
- 2005 2 out of every 5 support calls concerned Spyware
- 50 % of calls to Microsoft involve Spyware.

[10:23:59 AM](#)

Signs of Spyware:

- Lots of pop-up ads
- Homepage or other settings are changed
- New toolbars appear
- New icons appear on your desktop
- Computer slows down

How does Spyware get installed?

By installing "free" software such as:

Screensavers  
Weather info  
Toolbars  
Music sharing

[10:25:27 AM](#)

SENATOR HOLLIS FRENCH asked whether a person could get pop-ups without ever installing Spyware.

MR. CLOTHIER answered yes. Many websites are designed to deliver pop-up ads to your computer.

SENATOR THERRIault clarified some websites legitimately place their own pop-up ads but Spyware takes over the ads.

[10:27:46 AM](#)

MR. CLOTHIER continued many websites place a cookie on your computer so it knows a little bit about you. Merely visiting a website can open the door where software is installed without your consent.

[10:29:16 AM](#)

How does Spyware get installed?

A lengthy "end user licensing agreement", which most people do not read, might say you cannot uninstall the Spyware.

What does Spyware do?

- Change computer settings
- Occurs without your consent
- Steals confidential information

Good Software vs. Bad:

Not all software that collects information is bad

[10:31:41 AM](#)

How Do You Remove Spyware?

- Spybot
- Spy Sweeper

- Ad-aware

Despite all the best efforts, Spyware causes serious issues. Spyware removal is taking more time than virus removal efforts.

[10:32:59 AM](#)

Solutions:

- Education
- Technological tools
- Legislation

[10:34:38 AM](#)

SENATOR HUGGINS asked what SB 140 would accomplish.

MR. CLOTHIER answered SB 140 would be a signal to Spyware operators that they will be regulated. It will provide a benefit to computer users by giving them recourse. Major Spyware provider companies are listed in the NASDAQ. The major players are easy to identify.

[10:38:05 AM](#)

SENATOR THERRIAULT announced his intention to have the drafter remove the finding and intent section before putting SB 140 before a vote.

There being no further business to come before the committee, Vice-Chair Huggins adjourned the meeting at [10:39:38 AM](#).