

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

January 24, 2006

1:35 p.m.

MEMBERS PRESENT

Senator Con Bunde, Chair
Senator Ralph Seekins, Vice Chair
Senator Ben Stevens
Senator Johnny Ellis
Senator Bettye Davis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 222

"An Act relating to breaches of security involving personal information, consumer report security freezes, consumer credit monitoring, credit accuracy, protection of social security numbers, disposal of records, factual declarations of innocence after identity theft, filing police reports regarding identity theft, and furnishing consumer credit header information; and amending Rule 60, Alaska Rules of Civil Procedure."

HEARD AND HELD

SENATE BILL NO. 207

"An Act relating to the membership on the board of directors of the Alaska Aerospace Development Corporation."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 222

SHORT TITLE: PROTECTION OF PERSONAL INFORMATION

SPONSOR(s): SENATOR(s) THERRIAULT, GUESS

01/09/06	(S)	PREFILE RELEASED 12/30/05
01/09/06	(S)	READ THE FIRST TIME - REFERRALS
01/09/06	(S)	L&C, JUD
01/24/06	(S)	L&C AT 1:30 PM BELTZ 211

BILL: SB 207

SHORT TITLE: AK AEROSPACE DEVEL. CORP BD MEMBERSHIP

SPONSOR(s): SENATOR(s) STEVENS G

01/09/06 (S) PREFILE RELEASED 12/30/05
01/09/06 (S) READ THE FIRST TIME - REFERRALS
01/09/06 (S) L&C, FIN
01/24/06 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

SENATOR GRETCHEN GUESS
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Co-sponsor of SB 222.

SENATOR GENE THERRIAULT
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Co-sponsor of SB 222.

JOHN GEORGE
American Council of Life Insurers
Juneau AK 99801
POSITION STATEMENT: Had concerns with SB 222.

LISA CORRIGAN
Alaska Bankers Association
2094 Jordan Ave.
Juneau AK 99801
POSITION STATEMENT: Supported SB 222 with changes.

RON JORDAN
Anchorage AK
POSITION STATEMENT: Supported SB 222 with stronger penalties.

ED SNIFFEN Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300
POSITION STATEMENT: Commented on SB 222.

SENATOR GARY STEVENS
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 207.

MIKE MILLIGAN
Kodiak AK

POSITION STATEMENT: Supported SB 207.

NORM WOOTEN, Executive Director
Kodiak Chamber of Commerce
Kodiak AK

POSITION STATEMENT: Supported SB 207.

LINDA FREED, Manager
City of Kodiak
Kodiak AK

POSITION STATEMENT: Supported SB 207.

DOUG LETCH
Staff to Senator Gary Stevens
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 207 for the sponsor.

ACTION NARRATIVE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at [1:35:19 PM](#). Present were Senators Ben Stevens, Ralph Seekins, Bettye Davis and Chair Con Bunde.

^#SB222

SB 222-PROTECTION OF PERSONAL INFORMATION

CHAIR CON BUNDE announced SB 222 to be up for consideration.

SENATOR GRETCHEN GUESS, co-sponsor of SB 222, recapped the purpose of the bill saying that the problem of identify theft is worse this year than last.

[1:38:00 PM](#)

SENATOR GENE THERRIAULT, co-sponsor of SB 222, said he read an article that said 1,600 cases of fraud and identify theft were reported in 2004; of those, 400 were identity theft. He explained that it is very difficult to get control of one's economic and personal data once it has been stolen. Recognizing that consumers benefit from rapid data availability, he realized that simply freezing data wouldn't allow stores quick access to information on customers who are applying for a credit card, for instance, to take advantage of a special sale; and he still wanted to give consumers the option of being able to freeze access to their data.

[1:43:41 PM](#)

CHAIR BUNDE asked if he also envisioned an instant "opt out" option so that a credit report could be quickly obtained by a business that has had a person apply for one of their credit cards. He also asked how quickly a person could apply the remedy if his information had been stolen and used.

SENATOR THERRIAULT responded that that is what he hoped testimony would cover today.

[1:44:50 PM](#)

SENATOR RALPH SEEKINS asked what interstate implications this bill would have, since it would be Alaska law and most credit bureaus that are accessed for personal information are headquartered outside of Alaska.

SENATOR THERRIAULT responded that the state has the authority to regulate those companies, because they are responding to inquiries of businesses within the state of Alaska.

SENATOR SEEKINS asked what if a customer was in Seattle and there's a big sale at Nordstrom's and he had frozen his account in Alaska, would there be a statutory requirement for the enquiry to be frozen.

SENATOR THERRIAULT replied, "I don't think that's the way the system works." He surmised that for someone who had acquired his data and pretended to be him, the law would be meaningless in every one of the other states.

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SENATOR SEEKINS asked where the definition of information collector is located.

SENATOR GUESS replied that that definition is on page 4, lines 6 - 8 and an information collector is a person who owns or uses personal information in any form... on a state resident.

SENATOR SEEKINS asked if a person who wrote down his zip code was, by definition, an information collector.

SENATOR GUESS replied no and that the personal information definition is on page 4, lines 9 - 28 and talks about what personal information is and, therefore, what it is not.

SENATOR SEEKINS stated he thought that definition needed to be clarified.

[1:51:44 PM](#)

SENATOR GUESS asked if Senator Seekins was referring to an Alaskan resident who may be in Washington who either wants to freeze or unfreeze his credit report.

SENATOR SEEKINS rephrased his question stating that the law would apply to all businesses working in Alaska, but if the headquarters of ABC Rating Company, for instance, is in Kansas City (that recognizes our state law) and the enquiry is coming from the Nordstrom Store in downtown Seattle, does the ABC Reporting Company have any statutory requirement not to provide that - even though the customer froze his report in Alaska.

SENATOR THERRIAULT replied that the State of Alaska has the power to regulate a business entity that is housed outside of the state if it has agreed and wants to transact business in the state of Alaska.

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CHAIR BUNDE posed his Bahamas question. An Alaskan resident freezes his credit information; he wins the lottery and moves to the Bahamas and he hasn't taken the freeze off. Does the freeze stay there until he removes it - no matter where he resides.

SENATOR THERRIAULT indicated yes.

SENATOR SEEKINS asked for a report on that situation's enforceability by the time this bill came to the Judiciary Committee.

SENATOR THERRIAULT noted that the bill breaks down the controls an individual consumer can exert over his information and what duties the companies collecting the information have to him, if there is a breach of their internal security.

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SENATOR SEEKINS asked about credit accuracy on page 14. He asked if a person disputes the credit information, does he have a responsibility to report it immediately to the information collector.

SENATOR THERRIAULT replied that the business has the duty to stop making reports.

[1:58:05 PM](#)

SENATOR JOHNNY ELLIS arrived.

[1:58:52 PM](#)

SENATOR GUESS responded that language on page 14, line 25, says that it applies to those companies that are actually distributing the information, not someone who is using the information.

SENATOR SEEKINS remarked that he didn't want to end up with an affirmative responsibility on the part of the merchant who is trying to gain information to make a credit decision.

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JOHN GEORGE, American Council of Life Insurers, said that some of his concerns had been addressed, but he still had issues. He didn't think a company should be required to do business with a person if he refuses to give it his social security number. In the life insurance business, he said:

We need to make sure that we're paying the right beneficiary. We need to know that that's absolutely the right guy and a social security number is a personal identifier; it's a number that's generally collected....

He further explained that if a person uses another name, like their pet cat's name, Fluffy, the person who filled out the application knows that, but their heirs who are the ones who are going to be collecting on the policy may not know that. He explained:

We really need an identifier that is consistent, that can be verified and for someone to refuse to give that type of information may make it difficult for us to identify who the real deceased is and, therefore, who the legal beneficiaries are.

He also had problems with the notification requirement that would force them to notify every policyholder in the state that they had a breach of security if someone accidentally got the wrong letter in the mail and sent it back.

[2:04:01 PM](#)

CHAIR BUNDE asked if banks could still refuse to cash checks without a person showing his social security number first.

MR. GEORGE replied that he didn't know if cashing a check could be considered "doing business" and that's the language that is

used. Selling a life insurance policy to someone is really "doing business" with him.

CHAIR BUNDE instructed him to work with the bill's sponsors on resolving his issues.

[2:05:52 PM](#)

LISA CORRIGAN, President, Alaska Bankers Association, said she is also Executive Vice President and Chief Operating Officer of Alaska Pacific Bank. She stated the Alaska Bankers Association supported the intent of this legislation saying, "Our very integrity depends upon our ability to safeguard customer information, not just their money, but any of their sensitive information."

Her comments pertained to three points of clarification. The first issue was language in Section 1 concerning disclosure of breach of security. It appears to state that a bank would have to notify affected persons regardless of whether sensitive customer information had actually been accessed for unauthorized purposes and that language goes too far.

She explained that banks are already operating under numerous regulatory rules and guidelines from the federal regulatory authorities governing all banks that was developed as a requirement in the Gramm-Leach-Blighly Act regarding privacy.

Banks are required to look at how likely it is that such a breach would occur and how vulnerable their data would be in that event and they have to come up with a program of response. Regulation language says:

If the bank determines through this risk assessment process in their analysis of the breach itself that such misuse has occurred or it is reasonably possible that misuse will occur, then notification of affected customers is required as soon as possible.

Secondly, she recommended different language regarding notification to law enforcement, again from the banking interagency guidance. Instead of stating that just the Department of Law needs to be consulted to see if there is an on-going investigation, the association wanted to make sure that all appropriate law enforcement agencies would be referenced.

Thirdly, the protection of social security number language on page 15 talks about having a waiver for a refusal to do business

with an individual if a business is required to submit a social security number to the federal government. She pointed out that there are cases in which a bank is required to obtain a social security number, as under the Patriot Act, so that an individual who wants to open an account can be definitively identified. If that person is not a primary signer on the account, that social security number will probably not be reported to the IRS and is held in the bank's records as a form of identification. To resolve this, she asked the committee to delete "submit" and insert "obtain" on line 30.

CHAIR BUNDE asked if she thought this legislation prevented her from requiring a social security number from a person who was cashing a check at her bank.

MS. CORRIGAN replied that she didn't see that as a problem as long as the bank is allowed to obtain it without having to submit it to the federal government.

[2:13:58 PM](#)

RON JORDAN, Anchorage, said he was testifying for himself and his deceased brother-in-law's behalf, having dealt with his identity theft. His brother-in-law had a housemate who was renting from him who stole his identification. While Mr. Jordan supported SB 222, he didn't think the penalties in it were strong enough. Mandatory jail time and/or restitution should be involved.

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ED SNIFFEN, Assistant Attorney General, said he specializes in consumer law and supported the overall intent of the sponsors, but he had some concerns about the way SB 222 would impact a variety of state agencies that collect personal information as defined in this bill. He was working to amend some provisions to provide the protections for state agencies that are trying to conduct state business without fear of having to absorb enormous expenses to notify state residents for some incidental and perhaps unintentional exchange of information.

On Senator Seekins' question about applicability of this law if one was to cross state lines and if an Alaskan resident calls a credit bureau in Minneapolis to put a freeze on this credit report, he stated that that credit reporting agency would be required to honor that freeze regardless of who called.

[2:18:40 PM](#)

CHAIR BUNDE asked if the person who wishes that service has to identify himself as an Alaskan resident to access protection under Alaska law.

MR. SNIFFEN replied yes, the bill requires the resident to provide sufficient identification to the bureau. It has to honor his request if it wants to continue to do business in Alaska. Half the states have the same requirement.

CHAIR BUNDE thanked people for their comments and said the bill would be held for further work.

#

^#SB207

SB 207-AK AEROSPACE DEVEL. CORP BD MEMBERSHIP

CHAIR CON BUNDE announced SB 207 to be up for consideration.

[2:21:48 PM](#) recess [2:22:52 PM](#)

SENATOR GARY STEVENS, sponsor of SB 207, explained that it would expand membership on the board of directors of the Alaska Aerospace Development Corporation to include two members from Kodiak. It presently has nine members. Currently, only one member of the board is from Kodiak and it has historically had two members. This island is where all the activities occur and the launch pad has substantial impacts on the community. The Department of Commerce, Community & Economic Development (DCCED) estimates that the two added members would cost about \$9,700 per year (from the rocket launch budget).

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CHAIR BUNDE asked if the same thing could be accomplished by designating that two of the existing members be from Kodiak.

SENATOR GARY STEVENS replied yes, but he explained there were two members from Kodiak and one resigned. The replacement was not from Kodiak and that brought up this issue.

[2:26:30 PM](#)

SENATOR SEEKINS asked why Kodiak lost one position in the first place.

SENATOR GARY STEVENS replied that Ron Acarregui resigned or reached the end of his term and his replacement was not from Kodiak.

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SENATOR JOHNNY ELLIS asked what kind of decisions the board members actually make.

SENATOR GARY STEVENS responded that the board sits in an advisory capacity and doesn't impact the number of launches, safety or things like that. One of the main issues it deals with is access to Fossil Beach, a popular area for people to visit, that is closed when there is a launch.

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MIKE MILLIGAN, Kodiak resident, favored SB 207. He related that Kodiak did not have a lot of homesteading that other communities had primarily because its opportunities were on the water. So, private land is greatly restricted there and the commons are looked at differently. The launch facility is on state land. Kodiak has an active (Not In My Back Yard) NIMBY force due to fear over the military launches. Some of that could be alleviated with another person from Kodiak being on the board. He thought the state would be better served by an 11-member board as opposed to a nine-member board.

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SENATOR BEN STEVENS pointed out that language in Section 1 says the board goes from three to five members with two from Kodiak, but one is left undesignated.

CHAIR BUNDE clarified that all five have to be state residents that have a significant level of experience in the private business sector and two of them have to be from Kodiak, the other three can be from across the state.

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SENATOR SEEKINS asked if there are any requirements of the people from Kodiak other than being from Kodiak.

CHAIR BUNDE replied that he understood that all members must have the experience in private business, but also be from Kodiak.

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NORM WOOTEN, Kodiak Chamber of Commerce, said the chamber passed a resolution in support of this idea. It is committed to the success of the launch complex under the ownership of AADC and of any other industry that would broaden the economic base in Kodiak. He explained that currently the corporate offices of AADC are off of Kodiak Island and considering the huge impact

that the launch facility has on it, members from Kodiak on the board would go a long way in allaying the mistrust that might be present.

DAVE WOODRUFF, AADC Board of Directors, explained they serve in a capacity that is greater than just advisory. They monitor budgets, make decisions on equipment purchases and oversee what is happening at the launch site.

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SENATOR BEN STEVENS mused that the board is going from three state residents to five and before when there was three, two were from Kodiak (although not in statute), but now they are going to three from outside Kodiak. It seemed that if they wanted representation from the community that is most impacted from the operations, they would want to have three members from Kodiak and two from other business interests in the state.

CHAIR BUNDE commented that he thought if you have two designated out of nine, there would be more impact than having two out of 11 members.

SENATOR BEN STEVENS asked Mr. Woodruff if he would want three instead of two out of five.

MR. WOODRUFF responded that it would be nice to have three from Kodiak, but the bigger the board, the more ungainly it is to get people to it. The board has operated fine with nine members with two being from Kodiak. If the board goes to 11 members, he thought it would be nice to have three from Kodiak.

[2:44:23 PM](#)

LINDA FREED, Manager, City of Kodiak, said a city council resolution supported SB 207, but didn't address increasing the size of the board as long as there are two members from Kodiak. She has worked hard to make sure that the facility works with the community.

[2:46:20 PM](#)

CHAIR BUNDE asked if there is any opposition to the numbers on the board.

SENATOR GARY STEVENS replied he hadn't heard of any opposition. It just seemed cleaner to increase the size of the board; and to keep the current number, someone would have to be taken off.

SENATOR SEEKINS asked if the board terms are staggered and if the main reason for increasing the size is so that someone does not have to be removed.

DOUG LETCH, aide to Senator Gary Stevens, explained that page 2, section 2, sets forth the members' terms.

SENATOR SEEKINS said it appears that there is one member from Kodiak now and asked when his term expires and if that expediency why two more members were added as opposed to just waiting for natural attrition.

MR. LETCH replied that his term expires in June and that they were looking for the best way to not have to kick someone off the board.

[2:51:13 PM](#)

CHAIR BUNDE announced he would hold the bill for further hearing and adjourned the meeting at [2:51:39 PM](#).