

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 20, 2006

1:31 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 439(L&C) am
"An Act relating to authorizing the state to join with other states in entering into the Interstate Insurance Product Regulation Compact."

MOVED CSHB 439(L&C) AM FROM COMMITTEE

SENATE BILL NO. 282

"An Act relating to the use of broadcasting to promote raffles and lotteries."

MOVED SB 282 FROM COMMITTEE

SENATE BILL NO. 315

"An Act relating to the disposition of unredeemed property; and providing for an effective date."

MOVED CSSB 315(L&C) FROM COMMITTEE

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 31(FIN)

"An Act relating to the presumption of coverage for a workers' compensation claim for disability as a result of certain diseases for certain occupations."

HEARD AND HELD

CS FOR HOUSE BILL NO. 338(L&C)

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

MOVED CSHB 338(L&C) FROM COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 439

SHORT TITLE: INSURANCE PRODUCT REGULATION COMPACT

SPONSOR(S): REPRESENTATIVE(S) COGHILL

02/10/06 (H) READ THE FIRST TIME - REFERRALS
02/10/06 (H) L&C, JUD
03/01/06 (H) L&C AT 3:15 PM CAPITOL 17
03/01/06 (H) Moved CSHB 439(L&C) Out of Committee
03/01/06 (H) MINUTE(L&C)
03/03/06 (H) L&C RPT CS(L&C) NT 3DP 3NR
03/03/06 (H) DP: LYNN, ROKEBERG, KOTT;
03/03/06 (H) NR: CRAWFORD, LEDOUX, GUTTENBERG
03/22/06 (H) JUD AT 1:00 PM CAPITOL 120
03/22/06 (H) <Bill Hearing Postponed to 03/24/06>
03/24/06 (H) JUD AT 1:00 PM CAPITOL 120
03/24/06 (H) Scheduled But Not Heard
03/27/06 (H) JUD AT 1:00 PM CAPITOL 120
03/27/06 (H) Moved CSHB 439(L&C) Out of Committee
03/27/06 (H) MINUTE(JUD)
03/28/06 (H) JUD RPT CS(L&C) NT 4DP 2AM
03/28/06 (H) DP: COGHILL, ANDERSON, KOTT, MCGUIRE;
03/28/06 (H) AM: GARA, GRUENBERG
04/05/06 (H) TRANSMITTED TO (S)
04/05/06 (H) VERSION: CSHB 439(L&C) AM
04/07/06 (S) READ THE FIRST TIME - REFERRALS
04/07/06 (S) L&C, JUD
04/11/06 (S) L&C AT 1:30 PM BELTZ 211
04/11/06 (S) Heard & Held
04/11/06 (S) MINUTE(L&C)
04/20/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 282

SHORT TITLE: BROADCASTING PROMOTING CHARITABLE GAMING

SPONSOR(S): SENATOR(S) STEVENS G

02/13/06 (S) READ THE FIRST TIME - REFERRALS
02/13/06 (S) L&C, STA
04/11/06 (S) L&C AT 1:30 PM BELTZ 211
04/11/06 (S) Heard & Held
04/11/06 (S) MINUTE(L&C)
04/20/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 315

SHORT TITLE: DISPOSITION OF UNREDEEMED PROPERTY

SPONSOR(S): RULES

04/12/06 (S) READ THE FIRST TIME - REFERRALS
04/12/06 (S) L&C, FIN
04/20/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 31

SHORT TITLE: WORKERS' COMP: DISEASE PRESUMPTION

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

01/10/05 (H) PREFILE RELEASED 12/30/04
01/10/05 (H) READ THE FIRST TIME - REFERRALS
01/10/05 (H) L&C, HES, FIN
02/09/05 (H) L&C AT 3:15 PM CAPITOL 17
02/09/05 (H) Heard & Held
02/09/05 (H) MINUTE(L&C)
03/04/05 (H) SPONSOR SUBSTITUTE INTRODUCED
03/04/05 (H) READ THE FIRST TIME - REFERRALS
03/04/05 (H) L&C, HES, FIN
03/04/05 (H) L&C AT 3:15 PM CAPITOL 17
03/04/05 (H) Moved Out of Committee
03/04/05 (H) MINUTE(L&C)
03/07/05 (H) L&C RPT 4DP 3NR
03/07/05 (H) DP: CRAWFORD, LYNN, GUTTENBERG,
ANDERSON;
03/07/05 (H) NR: KOTT, LEDOUX, ROKEBERG
03/29/05 (H) HES AT 3:00 PM CAPITOL 106
03/29/05 (H) Moved Out of Committee
03/29/05 (H) MINUTE(HES)
04/01/05 (H) HES RPT 2DP 1DNP 1NR
04/01/05 (H) DP: ANDERSON, MCGUIRE;
04/01/05 (H) DNP: WILSON;
04/01/05 (H) NR: KOHRING
04/21/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
04/21/05 (H) Moved CSSSHB 31(FIN) Out of Committee
04/21/05 (H) MINUTE(FIN)
04/22/05 (H) FIN RPT CS(FIN) 3DP 4NR
04/22/05 (H) DP: HAWKER, CROFT, STOLTZE;
04/22/05 (H) NR: WEYHRAUCH, JOULE, KELLY, CHENAULT
03/30/06 (H) TRANSMITTED TO (S)
03/30/06 (H) VERSION: CSSSHB 31(FIN)
03/31/06 (S) READ THE FIRST TIME - REFERRALS
03/31/06 (S) L&C, FIN
04/20/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 338

SHORT TITLE: CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

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

01/09/06 (H) PREFILE RELEASED 12/30/05
 01/09/06 (H) READ THE FIRST TIME - REFERRALS
 01/09/06 (H) L&C, FIN
 01/18/06 (H) L&C AT 3:15 PM CAPITOL 17
 01/18/06 (H) Heard & Held
 01/18/06 (H) MINUTE(L&C)
 01/27/06 (H) L&C AT 3:15 PM CAPITOL 17
 01/27/06 (H) Heard & Held
 01/27/06 (H) MINUTE(L&C)
 02/15/06 (H) L&C AT 3:15 PM CAPITOL 17
 02/15/06 (H) Moved CSHB 338(L&C) Out of Committee
 02/15/06 (H) MINUTE(L&C)
 02/17/06 (H) L&C RPT CS(L&C) 3DP 1NR
 02/17/06 (H) DP: CRAWFORD, LYNN, ANDERSON;
 02/17/06 (H) NR: ROKEBERG
 03/01/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/01/06 (H) Moved CSHB 338(L&C) Out of Committee
 03/01/06 (H) MINUTE(FIN)
 03/03/06 (H) FIN RPT CS(L&C) 6DP 4NR
 03/03/06 (H) DP: KERTTULA, JOULE, MOSES, FOSTER,
 MEYER, CHENAULT;
 03/03/06 (H) NR: STOLTZE, HAWKER, HOLM, KELLY
 03/17/06 (H) TRANSMITTED TO (S)
 03/17/06 (H) VERSION: CSHB 338(L&C)
 03/20/06 (S) READ THE FIRST TIME - REFERRALS
 03/20/06 (S) L&C, FIN
 04/20/06 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

RYNNIEVA MOSS

Staff to Representative John Coghill
 State Capitol
 Juneau AK

POSITION STATEMENT: Commented on HB 439 for the sponsor.

DOUG LETCH

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

POSITION STATEMENT: Commented on SB 282 for the sponsor.

DENNIS BOOKEY, General Manager
 Morris Communications
 Anchorage AK

POSITION STATEMENT: Supported SB 282.

ANNETTE SKIBINSKI

Staff to Senator Cowdery
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on SB 315 for the sponsor.

ED SNIFFEN, Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Commented on SB 315.

LALANYA SNYDER

Staff to Representative Chenault
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 338 for the sponsor.

GRAY MITCHEL, Director
Division of Labor Standards and Safety
Department of Labor & Workforce
Development

PO Box 21149

Juneau, AK 99802-1149

POSITION STATEMENT: Supported HB 338.

REPRESENTATIVE TOM ANDERSON

Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of HB 31.

JEFF BUSH, Executive Director
Alaska Public Entity Insurance

POSITION STATEMENT: Opposed HB 31.

TOM BOEDEKER, City Manager
Soldotna AK

POSITION STATEMENT: Opposed HB 31.

DAVID TALERICO, Mayor

Denali Borough
Healy AK 99743

POSITION STATEMENT: Opposed HB 31.

ACTION NARRATIVE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at [1:31:13 PM](#). Present at the call to order were Senators Davis, Seekins, Ben Stevens and Chair Bunde.

CSHB 439(L&C) am -INSURANCE PRODUCT REGULATION COMPACT

CHAIR CON BUNDE announced CSHB 439(L&C) AM to be up for consideration.

RYNNIEVA MOSS, staff to Representative John Coghill, explained that industry requested this legislation so that it could save a little money on these insurance policies by conforming on a national level. She stressed that one of the reasons Representative Coghill got involved in this legislation was because there was grumbling with Washington, D.C. that the feds would like to get into the action and this is one way to avoid that.

CHAIR BUNDE asked Linda Hall, Director, Division of Insurance, if she wanted to make additional comments. She indicated no.

[1:32:40 PM](#)

SENATOR SEEKINS moved to pass CSHB 439(L&C) AM from committee with individual recommendations and attached fiscal notes. Senators Davis, Seekins, Ben Stevens and Chair Bunde voted yea; and so CSHB 439(L&C) AM moved from committee.

SB 282-BROADCASTING PROMOTING CHARITABLE GAMING

CHAIR CON BUNDE announced SB 282 to be back up for consideration.

DOUG LETCH, staff to Senator Gary Stevens, sponsor of SB 282, said he would be happy to answer questions.

CHAIR BUNDE said that the radio broadcasting industry was concerned that promoting charitable gaming wasn't fair at this point.

SENATOR BETTYE DAVIS asked if it was clarified that the promoters had to be residents of Alaska.

CHAIR BUNDE responded that he had received an Attorney General's opinion that stated outside raffles by non-profits would be able to advertise their raffles for lottery in Alaska in newspapers and on the radio.

DENNIS BOOKEY, General Manager, Morris Communications, said he had already testified, didn't have anything new to add and didn't want to hold up passage of the bill.

[1:36:15 PM](#)

SENATOR SEEKINS moved to report SB 282 from committee with individual recommendations and attached fiscal note. Senators Davis, Ben Stevens, Seekins, and Chair Bunde voted yea; so SB 282 moved from committee.

SB 315-DISPOSITION OF UNREDEEMED PROPERTY

CHAIR CON BUNDE announced SB 315 to be up for consideration.

ANNETTE SKIBINSKI, staff to Senator Cowdery, explained that SB 315 has to do with property that is left at a pawn shop unclaimed past the unredeemed property deadline. Currently, there is a pawn loan limit of \$500, which was set 13 years ago. This bill does not seek to change that limit, but it brings the disparity in the ratio between pawn loan limits and unredeemed property back to what it was originally, twice the pawn loan limit. The loan limit was changed, but the unredeemed property limit was not. SB 315 would raise the ratio to twice the loan limit and has an immediate effective date.

CHAIR BUNDE asked if under current law a person who had a loan for \$100 could get an additional loan for up to \$400.

MS. SKIBINSKI replied if someone brought a ring worth \$1,200 to a pawnshop, the shop could loan up to \$500 on it. If after 60 days, the property has not been claimed or payments made, the pawnshop has a right to sell the ring. Currently, any profit the shop makes over \$400 has to be split with the person who brought the ring in and didn't claim it. She said the shop would have to sell the ring for at least \$600 just to get its \$500 back. SB 315 changes the ratio back to twice the loan limit - what it was when the pawn limit was \$200.

CHAIR BUNDE clarified the bill wasn't changing the notion that unredeemed property could be sold, but just changing the existing law as to the amount that could be charged for the unredeemed property.

MS. SKIBINSKI responded no; that it changes the amount that is split with the person who pawned the property when he didn't claim it. She said the current law says the pawnshop has to

split proceeds 50/50 with the person who brought the property in that sold for over \$400.

CHAIR BUNDE asked if the ring were sold for \$1,200, would the \$200 in excess of \$1,000 get split.

MS. SKIBINSKI replied that was correct.

[1:42:35 PM](#)

ED SNIFFEN, Assistant Attorney General, Department of Law (DOL), didn't have a problem with the bill, but suggested inserting a notification provision that alerts consumers that this is a consequence of failure to comply with the terms of the loan.

CHAIR BUNDE asked him to fax language to him and held the bill.

CSHB 338(L&C)-CERTIF. OF FITNESS FOR EXPLOSIVE HANDLERS

CHAIR CON BUNDE announced CSHB 338(L&C) to be up for consideration.

LALANYA SNYDER, staff to Representative Chenault, sponsor of HB 338, explained that currently the Department of Labor and Workforce Development (DOLWD) has the authority to issue a license known as a Certificate of Fitness to explosives handlers in Alaska. These applicants are required to submit a criminal background check within Alaska. However, this check does not require fingerprints to verify proper identification and does not capture criminal acts an applicant may have committed in other states. HB 338 would give the DOLWD and Department of Public Safety (DPS) the authority to perform the fingerprint-based, nationwide criminal history search.

GRAY MITCHEL, Director, Division of Labor Standards and Safety, DOLWD, said he issues about 180 licenses to explosives handlers in the construction industry and currently doesn't have statutory authority to do a criminal background check on them. He does a state background check, but it's not verified by fingerprints and isn't mandated by law. If someone challenged the department, it would be hard-pressed to force these individuals to provide that information. Explosives handlers don't include people who are dealing with fireworks, mining or some other activities where explosives are used. It really only applies to its use in the construction industry because that is what his division has jurisdiction over.

[1:48:30 PM](#)

SENATOR SEEKINS moved to report CSHB 338(L&C) from committee with individual recommendations and attached fiscal note. Senators Davis, Ben Stevens, Seekins and Chair Bunde voted yea; so CSHB 338(L&C) moved from committee.

[1:49:31 PM](#) recess [1:51:56 PM](#)

CSSSHB 31(FIN)-WORKERS' COMP: DISEASE PRESUMPTION

CHAIR CON BUNDE announced CSSSHB 31(FIN) to be up for consideration.

REPRESENTATIVE TOM ANDERSON, sponsor of HB 31, explained that the bill has to do with workers' compensation for firefighters and first responders. These folks are basically enduring exposure on a daily basis to smoke, heat, and various toxic substances. As a result, they are more likely to contract heart disease, cancer and other related problems. Since firefighters assume the roll of the state's leading providers of emergency medical services, they are also exposed to infectious diseases. Recognizing this linkage, 38 states have enacted a presumptuous law, which presumes that cardiovascular and infectious diseases and certain cancers are job-related for purposes of workers' compensation and disability retirement unless proven otherwise.

The Firefighters Association asked him for this legislation. It is fair and cost effective in the context that so few firefighters have ever made this claim; and it will not affect the risk pool.

[1:55:08 PM](#)

REPRESENTATIVE ANDERSON said that most states have acknowledged that the occupational hazards attributed to firefighting have presumptive disabilities laws, which is why 38 other states have some form of this. Alaska firefighters regularly respond to HAZMAT incidences involving chemical, radiological and biological hazards.

He said that the cancers covered are exposure-specific. He explained that two firefighters went to enough fires over the course of their careers that suddenly one came up with brain cancer and one developed bladder cancer. While those cancers are mostly hereditary, these men didn't have that in their hereditary records and suddenly developed it. It was believed to be from their service and at least one of them wasn't covered. He mentioned that having this coverage would also be a good recruitment tool.

CHAIR BUNDE asked if a smoker could receive benefits under this coverage if he developed lung cancer and was a firefighter also.

REPRESENTATIVE ANDERSON replied that language on page 3, lines 16 - 18, indicated that as a smoker, he wouldn't qualify.

1:57:44 PM

JEFF BUSH, Executive Director, Alaska Public Entity Insurance, opposed HB 31. His organization is a non-profit pool that insures 18 Alaskan municipalities that employ 150 people who would be affected by this legislation. He referenced a letter in the committee packets from Kevin Smith, Alaska Municipal League Joint Insurance Association - the other pool that does municipal insurance - that accurately reflected his position, which was based purely on financial considerations. He said it would adversely affect the insurance rates for municipalities. It wouldn't affect the risk pool because the state and municipalities are essentially self-insured or belong to self-insured pools.

His major concern was that the state's workers' compensation system was designed with a lot of presumptions in favor of coverage and in most cases there already is coverage. This bill extends that workers' compensation coverage to some cases where the disease the person develops is truly not work-related and gives a presumption to firefighters and other emergency personnel that people in other occupations don't have.

2:00:05 PM

He said Mr. Smith's letter estimated the cost of coverage would increase by 10 to 20 percent. The Division of Risk Management pointed out in its fiscal note that the presumption would require a lot of sorting out about when it would and wouldn't apply and, therefore, increase litigation, which would add more costs. Required medical screenings for emergency personnel and firefighters in order to prequalify for this coverage would cost more, as well - an additional \$8 million for municipalities in the first year alone. In general, Mr. Bush said that workers' compensation costs are always going up and they are going up for municipalities just like they are for everyone else and this just adds to the cost.

CHAIR BUNDE asked if the prescreening cost would be borne by the employee or potential employee.

MR. BUSH replied no, not as the bill is written now.

2:01:48 PM

TOM BOEDEKER, City Manager, Soldotna, said he had some concerns in general with the premise that firefighters have more risk than medical workers and others in hazardous professions. This presumption would have to be extended to those professionals as well, and he thought that was a door best left closed. He also opined the reason that the number of people who applied for this was minimal was because a presumption in their favor didn't exist. He thought that would change significantly if this measure went forward.

MR. BOEDEKER also had questions about the additional expense that would be associated with pre-employment physicals that currently don't include screening for cancer and other conditions.

2:04:49 PM

MIKE DAVIDSON, Legislative Liaison, Alaska Professional Firefighters' Association, supported HB 31. Many of the diseases they are discussing don't result from a single exposure to a known carcinogen, but rather to continuous exposure. Sometimes emergency response personnel are exposed to things such as blood-borne pathogens, but aren't aware of it until after the fact.

He said that firefighters and law enforcement and military personnel are very health conscious and are healthier than the average populous. Because of this "healthy worker effect" many statistics compared firefighters to police officers. Firefighters in American acquire and die of brain cancer at a rate that is 88 percent greater than police officers or 109 percent greater than the normal populace. They acquire bladder cancer at an 111 percent greater rate than police and a 319 percent greater rate than the average populace; they acquire non-Hodgkin's lymphoma at a 227 percent greater rate than police and acquire leukemia at a 270 percent greater rate than the police. They acquire skin cancer at a nearly three times greater rate than the average populace.

MR. DAVIDSON said the bill was focused so it couldn't be applied everywhere. To qualify for the cancer provisions, you have to have served at least 10 years as a firefighter, based on documented cases of exposures and cancers. The presumptive coverage only extends for a certain period of time after finishing work - not to exceed 60 months - and is based on years of work. An exclusion provision was established for known

tobacco users and an employer could refute any claim with a preponderance of evidence including the use of tobacco products, physical fitness, weight, lifestyle, heredity factors and exposure from other employment or non-employment activities.

The bill doesn't require employers to provide physicals. It does say you don't qualify for the presumption if you don't have an entry-level physical. He thought that provision would provide protection for the employer because it would create a base line for contagious diseases prior to beginning a person's employment.

MR. DAVIDSON argued that he thought this bill would decrease litigation. People with terminal illnesses have had to fight the system in their final months as the exact date of exposure was established. The reality is that the cause is not from a simple single toxic event, but rather continuous exposure.

Most states have a legal principle called the "fireman's rule" that says because firefighters and police officers are asked to respond to situations that are beyond their control, they are afforded less protection when arriving at those situations than other occupations. Because of that, they deserve increased protections from the results of that response. An example of this principle being used is the 2002 Alaska Supreme Court decision, *Moody v. Delta Western*.

MR. DAVIDSON said that the majority of other occupations, like steel working and road construction, are regulated by OSHA [Occupational Safety and Health Administration] and NIOSH [National Institute for Occupational Safety and Health] that establish safety standards in the workplace. But it is impossible for a firefighter to eliminate absorption of toxic byproducts in his work environment - the worst exposure risk being through the skin. He concluded saying that this bill would tremendously impact the families of the small number of people it would affect.

[2:15:02 PM](#)

KEVIN SMITH, Executive Director, Alaska Municipal League's Joint Insurance Association, said the association is a not-for-profit self-insurance mechanism for cities, boroughs and school districts in Alaska. He said the bill as drafted turns presumption on its head - but only for certain employees and certain conditions. As it is now, a presumption exists in favor of compensability on all claims and the presumption is overcome by substantial evidence to the contrary. Under the standard in

HB 31, to avoid the presumption, the employer must disprove the claim by a preponderance of evidence. So it shifts the burden of proof from the plaintiff to the defendant.

[2:17:35 PM](#)

MR. SMITH said the state's workers' compensation system already covers claims that are clearly work-related, but the things contemplated in HB 31 have many life style and hereditary causes. He referenced a National Fire Protection Association study that showed that 75 percent of fatalities in the fire service are heart attacks and most of the workers had preexisting conditions. It was a call to arms for fire departments to start recruiting people in better condition. They are automatically covered if they have a heart attack picking up a book with no consideration of diet, exercise or heredity.

[2:18:52 PM](#)

Regarding the comment that 38 other states have laws like this, he remembered growing up here that we don't care how they do it outside. He thought that many states had negotiated language like this in their pension agreements and that 38 states adopting this language was an exaggeration. He also thought the timing for this issue was poor considering that the workers' compensation system was in the process of getting fixed.

CHAIR BUNDE asked if firefighters have traditional health insurance.

MR. SMITH replied yes, particularly the career firefighters.

[2:20:14 PM](#)

DAVE TALERICO, Mayor, Denali Borough, agreed with Mr. Smith's comments. He said that traditional workers' compensation would cover any legitimate on-the-job injuries for everyone. He was particularly troubled by section (c). He concluded saying he opposed this bill.

CHAIR BUNDE said he would set the bill aside.

SB 315-DISPOSITION OF UNREDEEMED PROPERTY

CHAIR BUNDE announced SB 315 to be back up for consideration.

ANNETTE SKIBINSKI, staff to Senator Cowdery, said the sponsor was okay with conceptual Amendment 1 that Mr. Sniffen suggested regarding notification to consumers of the consequences of failing to comply with the terms of the loan.

CHAIR BUNDE asked if there were any objections to Amendment 1. There were none; so Amendment 1 was adopted.

2:22:59 PM

SENATOR SEEKINS moved to pass CSSB 315(L&C) from committee with individual recommendations and attached fiscal note. Senators Davis, Ben Stevens, Seekins and Chair Bunde voted yea; and CSSB 315(L&C) moved from committee.

There being no further business to come before the committee, Chair Bunde adjourned the meeting at 2:23:56 PM.