

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

April 27, 2006

1:37 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

CONFIRMATION HEARINGS:

Regulatory Commission of Alaska

Janis Wilson

CONFIRMATION ADVANCED

Workers' Compensation Board

John Abshire - Wasilla

Richard Behrends - Juneau

Andrew Piekarski - Eagle River

Patricia Vollendorf - Anchorage

Lori Wing - Anchorage

CONFIRMATIONS ADVANCED

Board of Barbers and Hairdressers

Carol Hernley - Cordova

CONFIRMATION ADVANCED

Board of Chiropractic Examiners

David Mulholland - Anchorage

CONFIRMATION ADVANCED

Workers' Compensation Appeals Board

Jim Robison - Eagle River

CONFIRMATION ADVANCED

CS FOR HOUSE BILL NO. 122(FIN)

"An Act relating to certain relief concerning motor vehicle leases, telephone services, education, utilities, state loans,

and hunting, fishing, and trapping licenses for members of the Alaska National Guard deployed to a combat zone; relating to reimbursement of premiums for Service members' Group Life Insurance paid by members of the Alaska National Guard deployed to a combat zone; and providing for an effective date."

MOVED SCS CSHB 122(L&C) FROM COMMITTEE

HOUSE BILL NO. 389

"An Act relating to tourist accommodations permits and to penalties for failing to comply with permitting requirements; removing a requirement that persons operating tourist accommodations post certain laws and regulations on the premises; and providing for an effective date."

MOVED HB 389 FROM COMMITTEE

CS FOR HOUSE BILL NO. 409(L&C)

"An Act relating to excluding qualified real estate licensees from workers' compensation coverage."

MOVED CSHB 409(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 377(L&C) am

"An Act relating to an exemption from certain registration and practice requirements for persons preparing drawings or specifications related to the construction of certain buildings and the grounds of the buildings."

MOVED SCS CSHB 377(L&C)

CS FOR HOUSE BILL NO. 150(FIN) am

"An Act requiring licensure of occupations relating to radiologic technology, radiation therapy, and nuclear medicine technology; and providing for an effective date."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 122

SHORT TITLE: NATIONAL GUARD INSURANCE & OTHER RELIEF

SPONSOR(S): REPRESENTATIVE(S) DAHLSTROM

02/02/05	(H)	READ THE FIRST TIME - REFERRALS
02/02/05	(H)	MLV, L&C, FIN
02/02/05	(H)	L&C REFERRAL REMOVED
02/17/05	(H)	MLV AT 1:00 PM CAPITOL 124
02/17/05	(H)	Heard & Held
02/17/05	(H)	MINUTE(MLV)
03/17/05	(H)	MLV AT 1:00 PM CAPITOL 124
03/17/05	(H)	Moved CSHB 122(MLV) Out of Committee

03/17/05 (H) MINUTE(MLV)
 03/21/05 (H) MLV RPT CS(MLV) NT 6DP
 03/21/05 (H) DP: THOMAS, GRUENBERG, CISSNA, ELKINS,
 MCGUIRE, LYNN
 03/31/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/31/05 (H) <Bill Hearing Postponed to Tues.
 4/5/05>
 04/05/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/05/05 (H) Heard & Held
 04/05/05 (H) MINUTE(FIN)
 04/06/05 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/06/05 (H) Moved CSHB 122(FIN) Out of Committee
 04/06/05 (H) MINUTE(FIN)
 04/07/05 (H) FIN RPT CS(FIN) NT 10DP 1NR
 04/07/05 (H) DP: HAWKER, HOLM, FOSTER, KELLY, CROFT,
 JOULE, STOLTZE, MOSES, MEYER, CHENAULT;
 NR: WEYHRAUCH
 04/07/05 (H) NR: WEYHRAUCH
 04/14/05 (H) TRANSMITTED TO (S)
 04/14/05 (H) VERSION: CSHB 122(FIN)
 04/15/05 (S) READ THE FIRST TIME - REFERRALS
 04/15/05 (S) L&C, FIN
 04/26/05 (S) L&C AT 1:30 PM BELTZ 211
 04/26/05 (S) -- Meeting Canceled --
 05/05/05 (S) L&C AT 1:30 PM BELTZ 211
 05/05/05 (S) -- Rescheduled to 05/06/05 --
 05/06/05 (S) L&C AT 1:30 PM FAHRENKAMP 203
 05/06/05 (S) -- Meeting Canceled --
 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)
 04/25/06 (S) L&C AT 1:30 PM BELTZ 211
 04/25/06 (S) -- Meeting Canceled --
 04/27/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 389

SHORT TITLE: REGULATION OF TOURIST ACCOMMODATIONS

SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/23/06 (H) READ THE FIRST TIME - REFERRALS
 01/23/06 (H) EDT, L&C
 02/13/06 (H) EDT AT 6:00 PM CAPITOL 106
 02/13/06 (H) Moved Out of Committee
 02/13/06 (H) MINUTE(EDT)
 02/15/06 (H) EDT RPT 4DP 1NR
 02/15/06 (H) DP: COGHILL, LYNN, CRAWFORD, RAMRAS;
 02/15/06 (H) NR: NEUMAN
 02/24/06 (H) L&C AT 3:15 PM CAPITOL 17

02/24/06 (H) -- Meeting Canceled --
02/27/06 (H) L&C AT 3:15 PM CAPITOL 17
02/27/06 (H) Moved Out of Committee
02/27/06 (H) MINUTE(L&C)
03/01/06 (H) L&C RPT 6DP
03/01/06 (H) DP: CRAWFORD, LYNN, LEDOUX, GUTTENBERG,
ROKEBERG, KOTT
04/10/06 (H) TRANSMITTED TO (S)
04/10/06 (H) VERSION: HB 389
04/12/06 (S) READ THE FIRST TIME - REFERRALS
04/12/06 (S) L&C
04/25/06 (S) L&C AT 1:30 PM BELTZ 211
04/25/06 (S) -- Meeting Canceled --
04/27/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 409

SHORT TITLE: NO WORKERS' COMP. FOR REAL EST. LICENSEE

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/30/06 (H) READ THE FIRST TIME - REFERRALS
01/30/06 (H) L&C, FIN
02/27/06 (H) L&C AT 3:15 PM CAPITOL 17
02/27/06 (H) Moved CSHB 409(L&C) Out of Committee
02/27/06 (H) MINUTE(L&C)
03/01/06 (H) L&C RPT CS(L&C) 4DP 1DNP 1AM
03/01/06 (H) DP: LYNN, LEDOUX, ROKEBERG, KOTT;
03/01/06 (H) DNP: CRAWFORD;
03/01/06 (H) AM: GUTTENBERG
03/14/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
03/14/06 (H) Moved CSHB 409(L&C) Out of Committee
03/14/06 (H) MINUTE(FIN)
03/15/06 (H) FIN RPT CS(L&C) 2DP 6NR
03/15/06 (H) DP: FOSTER, MEYER;
03/15/06 (H) NR: STOLTZE, KERTTULA, JOULE, HOLM,
WEYHRAUCH, MOSES
04/05/06 (H) TRANSMITTED TO (S)
04/05/06 (H) VERSION: CSHB 409(L&C)
04/07/06 (S) READ THE FIRST TIME - REFERRALS
04/07/06 (S) L&C, FIN
04/25/06 (S) L&C AT 1:30 PM BELTZ 211
04/25/06 (S) -- Meeting Canceled --
04/27/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 377

SHORT TITLE: EXEMPTION: RES. BLDG. DRAWINGS & SPECS

SPONSOR(S): REPRESENTATIVE(S) MEYER

01/18/06 (H) READ THE FIRST TIME - REFERRALS
 01/18/06 (H) L&C, FIN
 02/24/06 (H) L&C AT 3:15 PM CAPITOL 17
 02/24/06 (H) -- Meeting Canceled --
 03/03/06 (H) L&C AT 3:15 PM CAPITOL 17
 03/03/06 (H) Moved CSHB 377(L&C) Out of Committee
 03/03/06 (H) MINUTE(L&C)
 03/06/06 (H) L&C RPT CS(L&C) NT 3DP 1NR
 03/06/06 (H) DP: CRAWFORD, LYNN, KOTT;
 03/06/06 (H) NR: LEDOUX
 03/15/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/15/06 (H) Heard & Held
 03/15/06 (H) MINUTE(FIN)
 03/24/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 03/24/06 (H) Moved CSHB 377(L&C) Out of Committee
 03/24/06 (H) MINUTE(FIN)
 03/27/06 (H) FIN RPT CS(L&C) NT 3DP 4NR
 03/27/06 (H) DP: FOSTER, STOLTZE, MEYER;
 03/27/06 (H) NR: HAWKER, WEYHRAUCH, KELLY, KERTTULA
 04/20/06 (H) TRANSMITTED TO (S)
 04/20/06 (H) VERSION: CSHB 377(L&C) AM
 04/21/06 (S) READ THE FIRST TIME - REFERRALS
 04/21/06 (S) L&C, FIN
 04/25/06 (S) L&C AT 1:30 PM BELTZ 211
 04/25/06 (S) -- Meeting Canceled --
 04/27/06 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 150

SHORT TITLE: LICENSING RADIOLOGIC TECHNICIANS

SPONSOR(S): REPRESENTATIVE(S) ANDERSON

02/14/05 (H) READ THE FIRST TIME - REFERRALS
 02/14/05 (H) L&C, JUD, FIN
 02/23/05 (H) L&C AT 3:15 PM CAPITOL 17
 02/23/05 (H) Scheduled But Not Heard
 03/02/05 (H) L&C AT 3:15 PM CAPITOL 17
 03/02/05 (H) Heard & Held
 03/02/05 (H) MINUTE(L&C)
 03/18/05 (H) L&C AT 3:15 PM CAPITOL 17
 03/18/05 (H) Moved CSHB 150(L&C) Out of Committee
 03/18/05 (H) MINUTE(L&C)
 03/22/05 (H) L&C RPT CS(L&C) 2DP 1NR 2AM
 03/22/05 (H) DP: LYNN, ANDERSON;
 03/22/05 (H) NR: CRAWFORD;
 03/22/05 (H) AM: ROKEBERG, KOTT
 03/30/05 (H) JUD AT 1:00 PM CAPITOL 120
 03/30/05 (H) Heard & Held

03/30/05 (H) MINUTE(JUD)
 04/06/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/06/05 (H) <Bill Hearing Postponed>
 04/11/05 (H) JUD AT 1:00 PM CAPITOL 120
 04/11/05 (H) Heard & Held
 04/11/05 (H) MINUTE(JUD)
 01/27/06 (H) JUD AT 1:00 PM CAPITOL 120
 01/27/06 (H) Scheduled But Not Heard
 02/01/06 (H) JUD AT 1:00 PM CAPITOL 120
 02/01/06 (H) -- Meeting Canceled --
 02/03/06 (H) JUD AT 1:00 PM CAPITOL 120
 02/03/06 (H) Moved CSHB 150(JUD) Out of Committee
 02/03/06 (H) MINUTE(JUD)
 02/06/06 (H) JUD RPT CS(JUD) 2DP 1DNP 2NR 1AM
 02/06/06 (H) DP: ANDERSON, MCGUIRE;
 02/06/06 (H) DNP: WILSON;
 02/06/06 (H) NR: GARA, GRUENBERG;
 02/06/06 (H) AM: KOTT
 02/13/06 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 02/13/06 (H) Heard & Held
 02/13/06 (H) MINUTE(FIN)
 02/21/06 (H) FIN AT 3:00 PM HOUSE FINANCE 519
 02/21/06 (H) Moved CSHB 150(FIN) Out of Committee
 02/21/06 (H) MINUTE(FIN)
 02/27/06 (H) FIN RPT CS(FIN) 2DP 6NR 1AM
 02/27/06 (H) DP: FOSTER, CHENAULT;
 02/27/06 (H) NR: HAWKER, JOULE, STOLTZE, KERTTULA,
 HOLM, MEYER;
 02/27/06 (H) AM: WEYHRAUCH
 04/10/06 (H) TRANSMITTED TO (S)
 04/10/06 (H) VERSION: CSHB 150(FIN) AM
 04/12/06 (S) READ THE FIRST TIME - REFERRALS
 04/12/06 (S) L&C, FIN
 04/25/06 (S) L&C AT 1:30 PM BELTZ 211
 04/25/06 (S) -- Meeting Canceled --
 04/27/06 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

JANIS WILSON
 Anchorage AK

POSITION STATEMENT: Regulatory Commission of Alaska nominee.

HEIDI REIFENSTEIN
 Staff to Representative Dahlstrom
 Alaska State Capitol
 Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 122 for the sponsor.

KRISTIN RYAN, Director
Division of Environmental Health
Department of Environmental Conservation
410 Willoughby
Juneau, AK 99801-1795

POSITION STATEMENT: Supported HB 389.

NANCY MANLY
Staff to Representative Lynn
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 409 for the sponsor.

PEGGY ANN MCCHONNICHIE
Alaska Association of Realtors
Juneau AK

POSITION STATEMENT: Supported HB 409.

MIKE PAWLOWSKI
Staff to Representative Kevin Meyer
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 377 for the sponsor.

HEATH HILYARD
Staff to Representative Tom Anderson
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Commented on HB 150 for the sponsor.

RICK URION, Director
Division of Corporations, Businesses and Professional Licensing
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811-0800

POSITION STATEMENT: No position on HB 150.

CLYDE PEARCE, Inspector
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Supported HB 150.

ED HALL

Alaska Academy of Physician Assistants
Anchorage AK
POSITION STATEMENT: Supported HB 150.

ACTION NARRATIVE

CHAIR CON BUNDE called the Senate Labor and Commerce Standing Committee meeting to order at [1:37:48 PM](#). Present at the call to order were Senators Davis, Ellis, Ben Stevens, Seekins and Chair Bunde. The Chair announced that confirmation hearings would be the first order of business.

[1:42:10 PM](#)

JANIS WILSON said she was a long-time administrative law judge with the Regulatory Commission of Alaska (RCA) and its predecessor, the Alaska Public Utilities Commission (APUC). She said she had presided along with one or two FERC administrative law judges over every federal/state joint pipeline hearing that the APUC or the RCA held. In addition, she has presided over utility matters at the commission. She stated that her goal would be to do all she could so that the matters before the commission would have a fair and expeditious process.

CHAIR BUNDE thanked her for her willingness to serve and said her name would be forwarded to the full body for consideration and stated this did not reflect intent to vote one way or the other.

CHAIR BUNDE read names not present as follows and stated this did not reflect intent to vote one way or the other:

John Abshire - Wasilla
Richard Behrends - Juneau
Andrew Piekarski - Eagle River
Patricia Vollendorf - Anchorage
Lori Wing - Anchorage

Carol Hernley - Cordova

David Mulholland - Anchorage

Jim Robison - Eagle River

SENATOR SEEKINS moved to forward all the names to the full body and stated this did not reflect the intent to vote one way or the other. There were no objections and it was so ordered.

1:43:02 PM

CSHB 122(FIN)-NATIONAL GUARD INSURANCE & OTHER RELIEF

CHAIR CON BUNDE announced CSHB 122(FIN) to be up for consideration.

HEIDI REIFENSTEIN, staff to Representative Dahlstrom, sponsor of HB 122, said it supports Alaska National Guard deployed to combat zones through reimbursement of their life insurance premium while deployed, tuition relief and academic status protection while deployed and upon return from deployment a one-year complimentary license for hunting or fishing or both.

SENATOR SEEKINS moved to adopt SCS CSHB 122(L&C), version 0. There were no objections and it was so ordered.

MS. REIFENSTEIN explained changes said the committee requested that added the section on tuition relief for attending the University of Alaska and the Alaska Vocational Technical Center. A one-year convalescence period was also added that could be extended for an additional year with the approval the Adjutant General. "Convalescence" is defined as a hospital, outpatient or rehabilitation treatment for an injury suffered while deployed to a combat zone and this applies to the life insurance provision.

Again, at the request of the committee, language was also inserted to clarify that the complimentary hunting and fishing licenses are good for one year and that the life insurance premium would be reimbursed for the time deployed to a combat zone.

She added that a memo was sent to the all the committee members answering the question asked during the last hearing regarding the cost of the life insurance premium. The answer to that is \$324 for soldiers deployed on a 12-month period and \$81 for soldiers on a three-month deployment.

SENATOR ELLIS expressed gratitude to Representative Dahlstrom for taking up the definition of a period of convalescence.

1:45:35 PM

SENATOR SEEKINS moved to report SCS CSHB 122(L&C) from committee with individual recommendations. Senators Ben Stevens, Davis, Ellis, Seekins and Chair Bunde voted yea; so SCS CSHB 122(L&C) moved from committee.

[1:46:24 PM](#) at ease [1:47:37 PM](#)

[1:47:40 PM](#)

HB 389-REGULATION OF TOURIST ACCOMMODATIONS

CHAIR CON BUNDE announced HB 389 to be up for consideration.

KAREN LIDSTER, staff to Representative John Coghill, sponsor of HB 389, explained that the sponsor had asked all departments if they had laws that were no longer being used that could be repealed. The Department of Environmental Conservation (DEC) responded by stating that their permits for public accommodations (AS 18.35.040) were no longer being used. Their posting and penalty for non-compliance also needed to be repealed.

CHAIR BUNDE said he understood that this bill was clean up language that was simply removing language that was no longer used.

MS. LIDSTER replied yes.

[1:49:19 PM](#)

KRISTIN RYAN, Director, Division of Environmental Health, DEC, stated that the department doesn't currently permit tourist accommodations for sanitation and this statute only effects sanitation. It does permit for drinking water, food, wastewater and solid waste. She clarified:

It's just a matter of resources. We haven't had sufficient resources as far back as I've been able to tell, which goes back to the 80s - we haven't permitted them for sanitation purposes. So, we're a little concerned with liability risk there and the lack of necessity that we do permit a facility for something that is pretty much covered through other means.

[1:50:28 PM](#)

SENATOR SEEKINS asked if a hunting camp for a nonresident guide could be considered a tourist accommodation.

MS. RYAN replied according to the definition in statute - yes.

SENATOR SEEKINS asked if the department would have to post regulations.

MS. RYAN replied that a sanitation permit would have to be posted if this passed.

SENATOR SEEKINS asked if those permits were required under current law.

MS. RYAN replied correct.

SENATOR SEEKINS asked if they have to be posted.

MS. RYAN replied that posting requirements vary. For example, the food safety permit is required to be posted in an area where it can be seen, but for drinking water, wastewater and solid waste posting is not required.

SENATOR SEEKINS asked if people are on a guided hike and they backpack into an area with tents and sleeping bags, what kind of permits would they have to have.

MS. RYAN replied that those were timely questions because the department has just completed a camp permit, which people can apply for if they are in those situations. She said the permit was achieved through a consensus process with hunting, fishing and ecotourism guides. People are exempt from permit requirements if they are out for 14 days or less and consist of 24 people or less.

[1:52:51 PM](#)

SENATOR SEEKINS asked what constitutes a tourist.

MS. RYAN replied that the definition of these accommodations is quite broad and it doesn't have to be a paying customer.

SENATOR SEEKINS asked if he would need a permit if he were traveling with his cousin who is not a resident.

MS. RYAN replied if the party he was traveling with including his cousin exceeded 25 people, he would need a camp permit. Quantity is the issue and the number of people who are generating waste.

[1:54:41 PM](#)

SENATOR SEEKINS moved to report HB 389 from committee with individual recommendations and attached fiscal note. Senators Ben Stevens, Ellis, Davis, Seekins and Chair Bunde voted yea; so HB 389 moved from committee.

[1:56:14 PM](#)

CSHB 409(L&C)-NO WORKERS' COMP. FOR REAL EST. LICENSEE

CHAIR BUNDE announced CSHB 409(L&C) to be up for consideration.

REPRESENTATIVE BOB LYNN, sponsor of HB 409, introduced his staff, Nancy Manly, and disclosed that he is a licensed real estate broker acting in the capacity of broker associate in Alaska.

REPRESENTATIVE LYNN said that every state has laws that require most companies to purchase workers' compensation insurance for their employees. However, most real estate agents are considered independent contractors and not employees. The question is what is the difference.

REPRESENTATIVE LYNN explained that first of all, a real estate licensee signs an independent contractor agreement with a broker and pays for his own services. He doesn't receive a wage, salary or benefits. He receives payment for services directly related to his sales and other output. He is required to pay estimated quarterly income tax, his own social security taxes and the portion of social security tax that an employer would normally pay for an employee. He pays for all his business expenses including licensing fees, continuing education classes, advertising, mailing, supplies, long distance phone calls, design and implementation of a personal website - everything. "They are in fact a business within a business."

The broker has no control over the hours spent or how the licensee conducts the business so long as it is within the boundaries of the law. The IRS considers qualified real estate licensees as independent contractors. The purpose of this bill is for the state to recognize these people as independent contractors and not employees - the same as the IRS.

CHAIR BUNDE clarified that if this bill passes, the independent contractor has to buy his own insurance and would not be able to avail himself of the state system of workers' compensation - and it might be more expensive.

REPRESENTATIVE LYNN responded that was about right; real estate is a risky business.

SENATOR SEEKINS said he understood that under current workers' compensation law, realtors would be exempt from having to provide any insurance for themselves.

NANCY MANLY, staff to Representative Lynn, replied that was correct as long as the realtor didn't have employees.

CHAIR BUNDE remarked that if he were working for a business with workers' compensation, he couldn't sue the business if he got injured. If he were working for a business that didn't have worker's compensation, he could sue the owner of the business - whether the suit had merit or not.

[2:00:25 PM](#)

PEGGY ANN MCCHONNICHIE, Alaska Association of Realtors, heartily supported HB 409 saying it would clear up a problem that Alaskan realtors had been dealing with for a long time. According to the Internal Revenue Service (IRS), realtors have been independent contractors since the early 70s. The State Department of Labor sees realtors as independent businesses, but the Division of Insurance doesn't know for sure. So, this lack of continuity in business status has caused some problems. HB 409 clarifies that realtors have a contract with their broker and don't need workers' compensation insurance.

[2:02:15 PM](#)

SENATOR SEEKINS disclosed that Ms. McChonnie's father was a long-time good friend of his. He then moved to report CSHB 409(L&C) from committee with individual recommendations and attached fiscal note. Senators Ellis, Seekins, Davis, Ben Stevens and Chair Bunde voted yea; so CSHB 409(L&C) moved from committee.

CSHB 377(L&C) am -EXEMPTION: RES. BLDG. DRAWINGS & SPECS

CHAIR CON BUNDE announced CSHB 377(L&C) am to be up for consideration.

MIKE PAWLOWSKI, staff to Representative Kevin Meyer, sponsor of HB 377, said that the people who the sponsor asked to testify on this bill couldn't make it to today's meeting and they were asked to submit their letters in writing. He advised that Colony Builders submitted the letter that best summarized the issues.

MR. PAWLOWSKI summarized that the point is that state statute conflicts with building code in its requirement of a design professional. Building code says a two family home is up to three stories; state statute says a four-family home is two stories. In between those two definitions, home owners or people building a home get saddled with extra costs for performing

residential seismic and wind design characteristics in a market that is already tight for engineers and architects, who are generally not all that interested because the job is too small. HB 377 attempts to clean up that discrepancy between what building codes ask for and what the state law says.

[2:05:18 PM](#)

He said the sponsor had worked back and forth with the Board of Architects, Engineers and Land Surveyors and they had come up with an amendment for clarification.

[2:05:54 PM](#) at ease [2:06:12 PM](#)

CHAIR BUNDE moved to adopt Amendment 1 and objected for an explanation.

24-LS1471\FA.1
Bannister

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: CSHB 377(L&C) am

Page 2, lines 23 - 24:

Delete all material.

Insert "**is located in a municipality that has adopted a building or residential code that applies to the building and if the building complies with the building or residential code;**"

MR. PAWLOWSKI explained that Amendment 1 clears up the fact that the building must be located in a municipality that contains a building code. Without the building code, the issues of public safety are actually out there. If there is a building code and a department to submit a plan to, all of the issues are covered by the plan review process.

CHAIR BUNDE asked if someone wants to build on a remote site in an unorganized area, would he need the architectural review.

MR. PAWLOWSKI replied yes - if the structure is up to three stories - with an exception for owner-builders.

CHAIR BUNDE removed his objection and Amendment 1 was adopted. No one else wanted to testify on this bill and public testimony was closed.

[2:07:37 PM](#)

SENATOR SEEKINS moved to report SCS CSHB 377(L&C) am from committee with individual recommendations and zero fiscal note.

Senators Ben Stevens, Davis, Seekins, Ellis and Chair Bunde voted yea; so SCS CSHB 377(L&C) am moved from committee.

2:08:32 PM

HB 150-LICENSING RADIOLOGIC TECHNICIANS

CHAIR CON BUNDE announced HB 150 to be up for consideration and that it had a number of amendments that addressed the concerns they had heard.

HEATH HILYARD, staff to Representative Tom Anderson, sponsor of HB 150, explained that it establishes a full and partial professional licensure for radiologic technologists and other providing radiation X-ray examinations. The consistent question asked by many committees was why this bill was necessary. Obviously, the sponsor believes it is necessary and he pointed out that 33 states currently have full licensure of a similar nature; seven others also have regulation in place to establish credentials or licensure for these professionals. The United States federal government has similar professional requirements in its GS descriptions, but they are a little more stringent.

MR. HILYARD emphasized, though, that aside from the policy issue of licensures in general, there really is a greater public health concern. A 1999 University of California Berkeley report by Robert Sanders related how John W. Gofman, professor emeritus of molecular and cell biology at UC Berkeley, conducted an intensive analysis comparing death rates in each of the country's nine census divisions with the average number of physicians per 100,000 people in these divisions. He said:

'This is a serious public health problem,' Gofman said. 'We're talking about two biggest causes of death in this country, cancer and heart disease, which together amount to 45 percent of all deaths. Medical X-rays are a major cause of those deaths.'

Further, on page 2, it also states there is the assumption that at these doses radiation doesn't make a significant contribution, he said, but X-rays are very potent mutagens even at low doses. It's a disaster that people still believe that low doses are harmless.

MR. HILYARD stated that the sponsor worked with a number of groups - the Alaska State Medical Association, the State Medical Board (which hasn't taken a position on this bill) and a number

of health care provider industry groups in developing this bill. With the amendments before them, he felt that all of their concerns were addressed.

CHAIR BUNDE moved Amendment 1 and objected for discussion purposes.

4-LS0470\WA.1
Mischel

A M E N D M E N T 1

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am
Page 2, lines 8 - 9:
Delete all material.

Renumber the following paragraphs accordingly.

SENATOR SEEKINS also objected for discussion.

MR. HILYARD explained that Amendment 1 removes dental assistants (who would be under the direct supervision of a dentist) from the list of exemptions that was originally requested by the Alaska Dental Society. However, the Dental Society changed its position after ongoing discussions with the Board of Dentistry about scopes of practice within the dental profession. So, at this point, it wants that language removed - primarily because they want to deal with some of those questions internally.

CHAIR BUNDE removed his objection and asked if there were further questions about Amendment 1.

SENATOR SEEKINS asked what happens to dental assistants in two years.

MR. HILYARD replied if the board doesn't do anything through regulation to address the scope of practice for dental assistants, they would be required to get some sort of licensure.

SENATOR SEEKINS asked what kind of license.

MR. HILYARD replied that it would depend on what level of X-ray they were performing. Most likely dental assistants would be required to receive the limited licensure.

SENATOR SEEKINS asked if the effective date of the bill was two years out and if the Dental Association said it would be

responsible for dental assistants who make diagnostic X-rays to have met the requirements of the limited license.

MR. HILYARD replied that he was correct about the effective date and at this point they were hoping Amendment 1 would clarify that the dental assistants could perform the X-ray procedures. The dental hygienists can perform those procedures, but dental assistants couldn't.

SENATOR SEEKINS asked if he was aware of any objection to that at any level.

MR. HILYARD replied that the Dental Society requested the original language about dental assistants and then requested to have it removed. That section does not apply to the dental hygienists. Language in another provision on page 2, line 10, says that dental hygienists remain covered and can continue to perform the X-rays.

SENATOR SEEKINS said it appears that one amendment speaks to the definition of direct supervision and asked if that was Amendment WA.4. He asked if the supervision could be telephonic or by electronic means.

MR. HILYARD replied that was correct.

CHAIR BUNDE indicated there were no further objections and Amendment 1 was adopted.

[2:17:10 PM](#)

CHAIR BUNDE moved to adopt Amendment 2 and objected for an explanation.

24-LS0470\WA.2
Mischel

A M E N D M E N T 2

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am
Page 2, line 15, following "medicine,"
Insert "or a program for physician assistant or advanced nurse practitioner training,"

Page 2, lines 15 - 16:
Delete "or college"
Insert ", college, or program"

MR. HILYARD pointed out that line 15 of the first amendment says that "a program for a physician assistant or advanced nurse practitioner training" was requested by the Alaska Primary Care Association. Its argument was that many of those training programs do include training in X-ray technology and the sponsor wanted to provide for the fact that students in those programs would be authorized to do the examinations as long as it was under the direct supervision of a licensed practitioner.

CHAIR BUNDE said he knew that physician assistants have to work under the direction of a medical doctor, but he thought advanced nurse practitioners had less direct supervision.

MR. HILYARD responded that that was his understanding, as well, but he pointed out that this applies only to the students that are currently in those programs.

CHAIR BUNDE asked how students enrolling the day after the effective date would be dealt with.

MR. HILYARD replied that those students would be covered in the exemption.

CHAIR BUNDE removed his objection and Amendment 2 was adopted.

[2:19:04 PM](#)

CHAIR BUNDE moved to adopt Amendment 3 and objected for discussion purposes.

24-LS0470\WA.3

Mischel

A M E N D M E N T 3

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am

Page 2, lines 29 - 31:

Delete all material.

Reletter the following subsection accordingly.

MR. HILYARD said the sponsor removed that language because the definition for "direct supervision" had been revised in the definitions section. This section is problematic because it's not truly a definition under "safely and appropriately".

CHAIR BUNDE removed his objection and Amendment 3 was adopted.

[2:20:36 PM](#)

CHAIR BUNDE moved Amendment 4, and objected for discussion purposes.

24-LS0470\WA.4
Mischel

A M E N D M E N T 4

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am
Page 11, lines 14 - 15:

Delete all material and insert:

"(5) "direct supervision" means supervision that is on-site or available by telephonic or electronic means; in this paragraph, "supervision" includes demonstrations, record review, evaluation of clinical examinations, or communications;"

MR. HILYARD explained that this changes the definition of "direct supervision" and defines what constitutes physical presence. Practitioners from rural areas have expressed concern that perhaps some of the limited licensure practitioners at the time this bill goes into effect may not have a licensed practitioner in their presence on site. There is an ongoing debate about what constitutes physical presence. This definition came from direct supervision for audiologists and would alleviate most of their concerns.

[2:22:14 PM](#)

SENATOR SEEKINS pointed out that adding "means" on line 3 turns it into a definition.

CHAIR BUNDE removed his objection and Amendment 4 was adopted. [Amendments 5 and 6 were not offered.]

CHAIR BUNDE moved to adopt Amendment 7.

24-LS0470\WA.7
Mischel

A M E N D M E N T 7

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am
Page 2, lines 5 - 7:

Delete "if the practitioner certifies to the department on a form prepared by the department that the practitioner has obtained education or training to ensure the exam or test is performed safely"

[2:23:12 PM](#)

MR. HILYARD explained that this removes language that was added on the floor of the other body. At the time the amendment was made, it wasn't understood what the practical affect would be on the licensed practitioners. The desire was to ensure the maximum level of safety for the patient. It appears that it would be overly burdensome according to the Alaska State Medical Association and the Physicians and Surgeons.

SENATOR SEEKINS said it appeared to him that it would say someone who would otherwise be required to get a license doesn't have to get a license as long as they certify they have obtained education.

MR. HILYARD replied in looking at the exemptions as a whole, licensed practitioners, as defined in the definition section, do not require an additional licensure.

CHAIR BUNDE removed his objection and Amendment 7 was adopted.

CHAIR BUNDE moved to adopt Amendment 8 and objected briefly.

24-LS0470\WA.8
Mischel

A M E N D M E N T 8

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am

Page 5, line 10, following "imaging":

Insert ", including peripheral bone densitometry,"

MR. HILYARD explained that Amendment 8 established that limited radiologic imagers would also be able to perform peripheral bone densitometry. He added that he didn't know the difference between peripheral and central densitometry, but that would be the subject of the next amendment. The Alaska Society of Radiologic Technicians and the Alaska State Medical Association came up with compromise language that was also supported by chiropractors. Basically it adds another type of procedure that the limited imagers are capable of performing.

CHAIR BUNDE removed his objection and Amendment 8 was adopted.

[2:26:21 PM](#)

CHAIR BUNDE moved to adopt Amendment 9 and objected for discussion purposes.

24-LS0470\WA.9
Mischel

A M E N D M E N T 9

OFFERED IN THE SENATE

TO: CSHB 150(FIN) am
Page 5, following line 11:

Insert "(2) may perform central bone densitometry if certified by a credentialing organization recognized by the department;"

Renumber the following paragraphs accordingly.

MR. HILYARD explained that limited imagers would be able to perform central densitometry examinations if they have a credential from an organization recognized by the department. They would need an additional credential to perform this type of procedure in addition to their imaging license.

CHAIR BUNDE removed his objection and Amendment 9 was adopted.

[2:27:39 PM](#)

RICK URION, Director, Division of Corporations, Businesses and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), said he had no official position on the bill, but he did have some concerns. He explained that at one time the bill affected 900 people (to be licensed), but now it affects only 400 people. He said the reason for the licensure law is for public safety. So, it seems that all 900 people should still be included if public safety was the concern. He said also that the bill affects people who are already voluntarily hiring certified people. He said hospitals have to hire certified technicians to maintain their accreditation. It seems that the bill is a farce because it exempts all doctors and dentists who deliver most of the radiation and over half the other people who deliver radiation.

MR. URION added that the purpose of the bill is that people are being over-radiated. He related a personal anecdote about how he was radiated by licensed professionals in Seattle. He asked the operator if it was possible for him to over radiate him. He answered no, the machine determines the amount of radiation every 8 seconds, not the operator.

[2:30:15 PM](#)

SENATOR BEN STEVENS asked the licensing procedure for manufacturing of the X-ray equipment.

MR. URION replied that he didn't know, but the state has one inspector that rates X-ray machines for hospitals and doctors -

once every six years. Another person checks the dentists' equipment. He thought the machines should be looked at more often than every six years.

SENATOR BEN STEVENS remarked that he was sure the U.S. Patent Office would have multiple qualifications for a machine that could emit dangerous levels of radiation.

2:32:02 PM

CLYDE PEARCE, Inspector, Department of Health and Social Services (DHSS), said he is the one state inspector for X-ray equipment. While he did some federal inspections under contract with the Food and Drug Administration related to mammography, the federal government has a couple of inspectors who inspect facilities under the Indian Health Service. He said the hospitals tend to hire credentialed people, but quite a few clinics hire others without formal training - "with some pretty alarming results." He said that Mr. Union was correct in that the computer determines to a large extent the exposure received, but none of the automated aspects of equipment can account for incorrect positioning of the patient and things like that. He thought the bigger problem was how the machines were used.

MR. PEARCE said the Food and Drug Administration regulates the manufacture of X-ray machines, but once the machines are installed it's up to the states to regulate who operates them and what training they must have.

2:34:16 PM

MR. PEARCE had considerable concerns that the National Institute of Health recently reconfirmed that X-rays are carcinogenic and that the levels of exposure to this kind of radiation have been increasing nationwide - and in Alaska - since 1971 even though the trend has been to digitize the equipment. What's more, he emphasized, exposure levels necessary to cause harmful biological effects have been found to be a lot less than previously believed. Research now shows nationwide that 1 percent of cancers may be attributed to diagnostic X-ray overexposure. However, his observations during routine inspections in Alaska suggest that is probably a low figure in Alaska where over-exposures are common. He rarely finds a problem with the machines, but sees a lot of problems with how they are operated. More than 90 percent of excessive exposures are due to operator ignorance or carelessness or lack of due care in selecting the quantity of this carcinogen that is being administered to patients.

MR. PEARCE said the fact that 80 percent of the states already license operators is a good indication this is the most effective approach to protecting patients, the operators themselves, the public and the unborn baby. He concluded saying the Department of Health and Social Services supported this bill.

CHAIR BUNDE thanked him for his work and his testimony.

2:36:42 PM

ED HALL, Alaska Academy of Physician Assistants, opposed HB 150 as currently written, although the adopted amendments took care of some concerns. He explained that physician assistants are required to be in a collaborative plan with their physicians. He said they are not against educating anybody for shooting X-rays, but they have not found one case where someone has been pulled in off the streets and been pointed to the equipment and told to go start shooting X-rays - as some testimony has alleged.

He was concerned about requiring a large number of training hours. In the past the bill had a program that implemented a 240-hour program, but the Alaska Native Medical Center has 40-hour training program, which has proved to be quite adequate. Adding more training hours would also add more cost.

MR. HALL argued that the continuing education aspect for a limited radiographer isn't necessary because they have already been trained in the correct technique for each machine. There is no advantage to make nurses maintain continuing medical education in regards to radiography over and above what their specialty already requires them to do. Once they are certified and trained, there is no evidence that recertifying and charging another license fee every two years is going to make them a better technician.

Previously, continuing education was stated to be 20 hours every two years and then it was changed to whatever the department deemed appropriate. He supported a 40-hour training program, because quite a few clinics have people shoot X-rays who have not gone through formal training, but he did not support anything that could be convoluted into extended hours.

MR. HALL said he had already been told this would be a deal-killer, but if they are truly interested in the safety aspect of things, he suggested separating limited radiographers and requiring them to get training. He also stated that if this bill passes, the increased costs would be passed on to the patients.

2:43:55 PM

DONNA RUFSHOLM, Chair, Legislative Affairs Committee, Alaska Society of Radiology Technologists, said they wrote HB 150 out of concerns for the safety to the patients and the operators of the equipment and the necessity to establish standards that would assure that all Alaskans receive quality care when they have X-ray examinations taken.

MS. RUFSHOLM explained that she has training and knows that X-rays are carcinogenic and that no level is harmless, but the general public doesn't know that. They place all their confidence in the health care workers and don't know how to evaluate the safety of the procedure they are getting. The average patient assumes that anyone who takes his X-ray knows what he is doing and has received the proper amount of education to perform his job. However, Ms. Rufsholm said, "We found this is not true in all areas of the state." She related that Mr. Pearce had a letter that addressed some of the issues he has seen on his inspections where the exposure rates to the patient were too high, where the operators were actually exposing each other to radiation and a list of other things that were not meeting expected standards.

Passing HB 150 would establish standards for individuals performing X-ray exams - standards that don't exist in some of clinical areas. Opponents of HB 150 say that it is a financial burden, but an online program has been identified with the cost of \$229 per individual.

HB 150 would not change the way small rural clinics operate. It has been recognized that people in rural areas of the state have different needs than those in the urban areas and a number of changes have been made to the bill to accommodate the specific needs of the clinics.

She stated this will not cause people in rural clinics to lose their jobs; the clinics will have no interruption of service while the staff receives training; training is available on-line. There would be no loss of service in rural areas or a reduction in patient access to quality and complete clinic care. Requiring operators to be trained and tested does not increase cost, does not restrict access to patients, will not increase salaries, will not force clinics to close, will not cause staffing shortages, will not create burdensome financial obligations to clinics and the training can be completed at the place and time convenient to the operators.

[2:48:23 PM](#)

MS. RUFHOLM said that online programs have been identified that a person can watch anywhere. Provision was also made for any training programs sponsored by a medical facility, supervised and instructed by a licensed practitioner or fully licensed radiographer to be submitted as a curriculum to the department for approval. A 40-hour program that Mr. Hall's nurse attended could qualify under that provision. There is no minimum hour requirement at this point. People who have already received training have been exempted.

[2:50:32 PM](#)

CHAIR BUNDE thanked everyone for their testimony and held HB 150 for further review. There being no further business to come before the committee, he adjourned the meeting at [2:51:38 PM](#).