

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

March 15, 2007

8:24 a.m.

**MEMBERS PRESENT**

Representative Anna Fairclough, Co-Chair  
Representative Gabrielle LeDoux, Co-Chair  
Representative Mark Neuman  
Representative Kurt Olson  
Representative Sharon Cissna

**MEMBERS ABSENT**

Representative Nancy Dahlstrom  
Representative Woodie Salmon

**COMMITTEE CALENDAR**

HOUSE BILL NO. 169

"An Act relating to municipal impoundment and forfeiture."

- MOVED HB 169 OUT OF COMMITTEE

HOUSE BILL NO. 101

"An Act relating to uniform traffic laws."

- MOVED CSHB 101(CRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 169

SHORT TITLE: MUNIS IMPOUND/FORFEIT MOTOR VEHICLE

SPONSOR(s): REPRESENTATIVE(s) GARDNER

03/01/07	(H)	READ THE FIRST TIME - REFERRALS
03/01/07	(H)	CRA, JUD
03/15/07	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 101

SHORT TITLE: UNIFORM TRAFFIC LAWS

SPONSOR(s): REPRESENTATIVE(s) GATTO

01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	CRA
02/15/07	(H)	CRA AT 8:00 AM CAPITOL 124

02/15/07 (H) Heard & Held  
02/15/07 (H) MINUTE(CRA)  
03/15/07 (H) CRA AT 8:00 AM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE BERTA GARDNER  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Spoke as the sponsor of HB 169.

IRIS MATTHEWS, Staff  
to Representative Berta Gardner  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 169, answered questions.

JAMES FORNELLI, Senior Administrative Officer  
Treasury Division  
Finance Department  
Municipality of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: During hearing of HB 169, answered questions.

JANICE SHAMBERG, Member  
Anchorage Assembly  
Municipality of Anchorage  
Anchorage, Alaska

POSITION STATEMENT: Testified on HB 169.

HEATH HILYARD, Staff  
to Representative Carl Gatto  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Presented CSHB 101, Version C, on behalf of Representative Gatto, sponsor.

GERALD LUCKHAUPT, Attorney  
Legislative Legal and Research Services  
Legislative Affairs Agency  
Juneau, Alaska

POSITION STATEMENT: Spoke as the drafter of HB 101 and Version C.

REPRESENTATIVE CARL GATTO

Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: During hearing of HB 101, answered questions.

**ACTION NARRATIVE**

**CO-CHAIR GABRIELLE LEDOUX** called the House Community and Regional Affairs Standing Committee meeting to order at [8:24:58 AM](#). Representatives LeDoux, Fairclough, Neuman, and Olson were present at the call to order. Representative Cissna arrived as the meeting was in progress.

HB 169-MUNIS IMPOUND/FORFEIT MOTOR VEHICLE

[8:25:41 AM](#)

CO-CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 169, "An Act relating to municipal impoundment and forfeiture."

[8:25:50 AM](#)

REPRESENTATIVE BERTA GARDNER, Alaska State Legislature, speaking as the sponsor of HB 169, explained that the legislation was brought forward by a member of the Anchorage Assembly who was interested in dealing with those who have over \$1,000 in outstanding traffic fines. Those with large numbers of unpaid traffic fines often have long wrap sheets. She noted that the committee packet includes a list of those with a large amount of outstanding traffic fines. This legislation allows municipalities the ability to impound vehicles of those who have accumulated \$1,000 in fines. She opined that HB 169 places people on notice that the municipality is watching. She further opined that when the small [infractions] are addressed, the larger [infractions] often follow and thus HB 169 may be a good crime fighting tool. She highlighted that the legislation uses permissive language and is of zero cost to the state.

[8:28:17 AM](#)

CO-CHAIR LEDOUX, referring to the language "motor vehicle used by a person" rather than "owned by a person", posed a situation in which a vehicle was lent to a person. In such a situation, could the vehicle be impounded if the person borrowing the vehicle fit the criteria established in HB 169.

REPRESENTATIVE GARDNER replied that it's a possibility depending upon the ordinances of the municipality. She surmised that if a person unknowingly lends his/her vehicle to a person fitting the criteria in HB 169, the municipality would have a way to determine that and make an allowance for it. This legislation simply establishes a framework that allows municipalities to move forward with their own regulations.

[8:29:53 AM](#)

REPRESENTATIVE NEUMAN asked if there is any intent language with regard to how municipalities would establish this.

REPRESENTATIVE GARDNER opined that it's not necessary since municipalities have elected officials that are answerable to their constituents. This legislation, she reiterated, simply provides a tool.

REPRESENTATIVE NEUMAN inquired as to whether there is any collection effort at this time.

REPRESENTATIVE GARDNER replied that there is, although municipalities don't seem to spend a great deal of money to collect these fines.

[8:31:00 AM](#)

CO-CHAIR FAIRCLOUGH, referring to the Municipality of Anchorage (MOA), related that it first tries to attach to the permanent fund dividend. However, other collectors rank higher. She noted that MOA does have a collection agency which it utilizes.

[8:31:39 AM](#)

REPRESENTATIVE NEUMAN inquired as to how errors would be handled. He also inquired as to which vehicle would be taken in a situation in which the driver fitting the criteria specified in HB 169 owns more than one vehicle.

REPRESENTATIVE GARDNER related her understanding that these individuals would be discovered when law enforcement officials have reason to check the license plate or stop the driver. She said she didn't expect municipalities to actively seek vehicles to seize. This legislation is just a tool when someone comes to the attention of law enforcement for something else. If an error does occur, existing statute already provides recourse.

REPRESENTATIVE NEUMAN commented that \$7.5 million in fines should be an incentive to municipalities to go after these individuals, which he said he didn't view as a bad thing.

REPRESENTATIVE GARDNER clarified that the accumulated fines being targeted in HB 169 are for moving violations. She further clarified that finding individuals fitting the criteria in HB 169 and taking the vehicle doesn't necessarily mean that the money is presented. Moreover, HB 169 isn't a fundraising effort, but rather is an effort to address criminal behavior and the failure to heed consequences.

[8:34:38 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to a first-time offender with a fine that exceeds \$1,000 and the possibility of law enforcement taking the vehicle. She inquired as to whether there should be a delinquency provision.

[8:35:32 AM](#)

IRIS MATTHEWS, Staff to Representative Berta Gardner, Alaska State Legislature, pointed out that the documents listing the offenders in MOA demonstrate that they, even the lower end offenders, average four to five citations. Ms. Matthews explained she worked with the municipality to establish the \$1,000 threshold of fines, which represents several unpaid fines. She further explained that for a fine to be unpaid, one has already had 30 days to pay and thus a fine wouldn't be considered delinquent until after that 30 days has passed.

CO-CHAIR FAIRCLOUGH pointed out that the legislation refers to "unpaid" rather than "delinquent."

[8:36:58 AM](#)

CO-CHAIR LEDOUX inquired as to whether there are any constitutional issues with regard to impounding a vehicle that doesn't belong to the individual [driving who has more than \$1,000 in fines].

MS. MATTHEWS said that such hasn't been discussed. However, the legislation is placing language in the statute where other vehicles are impounded. She pointed out that when an individual is charged with driving under the influence (DUI), no matter whose vehicle it is, the vehicle is impounded. For any

impoundment there is an administrative hearing process in which the vehicle owner would be able to come forward.

8:38:01 AM

REPRESENTATIVE NEUMAN asked if the documents in the committee packet include citations written by Alaska State Troopers or only those by municipal police departments. He also asked how the state would take advantage of the tool provided by HB 169.

REPRESENTATIVE GARDNER clarified that the state is simply providing permissive language for the municipalities. However, she pointed out that when an individual is pulled over, the Alaska State Trooper or municipal law enforcement would have access to information regarding the individual's driving record, including unpaid fines, is available.

8:39:57 AM

JAMES FORNELLI, Senior Administrative Officer, Treasury Division Finance Department, Municipality of Anchorage (MOA), specified that the citation list included in the committee packet is exclusively citations from the Anchorage municipal police department and don't include any state citations.

8:40:38 AM

CO-CHAIR LEDOUX asked if state troopers write citations within the municipality.

MR. FORNELLI said he isn't sure. However, he pointed out that a citation from a trooper would be issued under state code, which doesn't correlate with the municipal code.

8:41:24 AM

CO-CHAIR FAIRCLOUGH inquired as to the constitutionality of a municipality confiscating a used vehicle that is being used by another party.

MR. FORNELLI said he wasn't able to answer.

8:43:16 AM

MR. FORNELLI clarified that MOA receives these cases from the courts as an unpaid judgment. Once MOA receives a case, a letter is sent and garnishment of the permanent fund dividend is

utilized. In the course of the last year, MOA has begun to utilize the garnishment of bank accounts and wages. Unfortunately, that doesn't work for everyone because not everyone has bank accounts or is employed. These cases are ultimately sent to a third-party collection agency that specializes in municipal debt collection. The third-party collection agency has been minimally successful because those who have been cited are very good at hiding. Mr. Fornelli then explained that when the citation is issued, the citation is retained by the police department for approximately 45-60 days in order to allow the cited individual the time to pay the fine. The individual being cited is notified by receipt of the citation as well as by mail. After that 45-60 days, the court then receives the unpaid citations and either defaults the judgment or it goes to trial. Citations in that process are sent another letter by the courts specifying that without restitution, the individual will proceed to municipal collections. Once the municipality receives the citations, approximately 60-90 days from issuance of the citation has passed. Again, another letter is sent specifying what could result from nonpayment, including proceeding to a collection agency. The aforementioned takes another 60 days. Therefore, it would take four to five months before what is being proposed in HB 169 could occur and during that time the offender has received multiple letters and opportunities to comply and pay citations.

[8:48:27 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to at what point a fine is declared delinquent.

MR. FORNELLI opined that when the municipality receives the fine from the court it arrives as a delinquent criminal fine or fee. The municipality usually works that case for approximately 60 days.

[8:49:38 AM](#)

JANICE SHAMBERG, Member, Anchorage Assembly, Municipality of Anchorage, recalled an assembly meeting during which a young woman related that she was struck while driving by someone who would qualified under this legislation. After speaking with the police department, Ms. Shamberg said she understood that legislation such as HB 169 is necessary to address individuals with multiple unpaid offenses/citations. These repeat offenders have no qualms about driving while having these citations. She

explained that she provided a draft ordinance upon which HB 169 was based. Ms. Shamberg pointed out that there will be an appeal process in place during which someone who has loaned a vehicle to an individual who would qualify under this legislation would have the opportunity to present that information. Someone who knowingly loans an automobile to someone else without taking into account that individual's lifestyle, should have some inconvenience to get the vehicle back, she explained. The original ordinance wasn't an effort to target these repeat offenders, but since these are repeat offenders they present every opportunity for law enforcement to stop them. She related that it isn't the intent for a single large ticket to trigger impound or forfeiture. This legislation is meant to capture those who drive with disregard for the life and safety of others, she emphasized.

[8:54:39 AM](#)

REPRESENTATIVE FAIRCLOUGH offered an amendment to page 2, line 1, to change from "unpaid" to "delinquent" in order to provide clarity such that a single event wouldn't cause an individual to immediately lose his/her vehicle. She then inquired as to the language "used by a person" and whether it might create possible constitutional issues.

MS. SHAMBERG said that the intent of the term "unpaid" versus "delinquent" would be specified in MOA's ordinance. She characterized such a language change as a friendly amendment that relays the intent. The constitutionality issue, she noted, was discussed at length with the attorneys in Anchorage who don't view there to be a problem due to the inclusion of the appeals process. If there are errors, the Anchorage Police Department has said it is willing to pay for the recompense of errors.

[8:57:13 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to municipal law and the use of a vehicle that is deemed to be connected with prostitution. She recalled that MOA takes the vehicle of persons involved in such.

MS. SHAMBERG replied yes. She recalled that the vehicle of a driver soliciting a prostitute is taken. If the vehicle is actually owned by someone else, she surmised that during the appeal process the vehicle would be returned.

[8:58:29 AM](#)

CO-CHAIR LEDOUX asked if Ms. Shamberg could provide the committee with the written discussion of the language "used".

MS. SHAMBURG replied yes.

[8:59:05 AM](#)

REPRESENTATIVE GARDNER pointed out that HB 169 merely adds a fifth element to current statute that already uses the terminology "motor vehicle used".

[8:59:51 AM](#)

CO-CHAIR LEDOUX, upon determining no one else wished to testify, closed public testimony.

CO-CHAIR FAIRCLOUGH moved that the committee adopt Conceptual Amendment 1, as follows:

Page 2, line 1;  
Delete "unpaid"  
Insert "delinquent"

There being no objection, Amendment 1 was adopted.

[9:01:51 AM](#)

CO-CHAIR FAIRCLOUGH moved to report HB 169, as amended, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 169(CRA) was reported from the House Community and Regional Affairs Standing Committee.

HB 101-UNIFORM TRAFFIC LAWS

[9:02:41 AM](#)

CO-CHAIR LEDOUX announced that the final order of business would be HOUSE BILL NO. 101, "An Act relating to uniform traffic laws."

[9:02:55 AM](#)

CO-CHAIR FAIRCLOUGH moved to adopt CSHB 101, Version 25-LS0262\C, Luckhaupt, 3/12/07, as the working document. There being no objection, Version C was before the committee.

9:03:16 AM

HEATH HILYARD, Staff to Representative Carl Gatto, Alaska State Legislature, pointed out that the committee should have a letter from the Office of the Mayor of Anchorage dated March 5, 2007, in which he responded to comments and discussion at the previous committee hearing. The mayor offered a couple of suggestions to further clarify statute. The sponsor choose to move forward with the suggestion of judicial imposition of the ignition interlock requirement. However, the second suggestion was not addressed because it is incorporated in Representative Meyer's legislation, HB 19. Mr. Hilyard related that Section 2 does address some of the sentencing confusion that was identified by Anchorage's municipal attorney, John McConnaughy. He related that he has provided Mr. McConnaughy and the mayor's chief of staff with Version C, but hasn't been able to reach them for comment.

9:05:36 AM

REPRESENTATIVE CISSNA expressed concern that she only recently saw the letter from the mayor and wasn't sure that Version C fits within what MOA found at fault. She expressed interest in receiving municipal feedback on this prior to moving the legislation.

MR. HILYARD related that he spoke with the mayor's chief of staff two days ago and faxed a copy of Version C requesting comments. He further related that he has made attempts this morning to reach the mayor's chief of staff and Mr. McConnaughy, but to no avail. Mr. Hilyard explained that the legislative drafter was charged with drafting Section 2 such that it adopted the mayor's first suggestion in the most correct manner.

9:08:07 AM

CO-CHAIR FAIRCLOUGH said she originally shared Representative Cissna's concerns, but has had repeated contact and correspondence [with MOA] since the initial meeting on HB 101. The bottom line is that from the legislature's legal perspective, the municipality must be in compliance regardless of whether they agree or not. She opined, "I do think that we're ready to move today on the bill that's before us and that we have provided the municipality additional time." She related the calls she has made trying to contact municipal officials in Anchorage. Co-Chair Fairclough opined that the situation seems

to be a stand-off in which the choice is either a legal action, which would waste resources at the state and local level, or a compromise during this legislative session. Therefore, Version C is a compromise that she said she supports.

9:12:12 AM

MR. HILYARD, in response to Co-Chair LeDoux, clarified that the mayor's letter included two suggestions, the second suggestion would tie ignition interlock to the issuance of temporary limited licenses, which is the essence of HB 19. If HB 19 doesn't make it through both bodies, then Representative Gatto would entertain inserting the second suggestion, he said. In response to Representative Neuman, Mr. Hilyard related that both the sponsor of HB 19 and HB 101 have been in discussion even before either legislation was prefiled. The discussion was that while each dealt with ignition interlocks, they were fundamentally different in the ultimate goal. Therefore, the decision at this point was to keep the two pieces of legislation separate.

9:15:19 AM

GERALD LUCKHAUPT, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, related that the mayor's letter offers the following two proposals: to adjust the ignition interlock requirement when an individual has a blood alcohol content (BAC) of .16 or greater and adjust who decides that and at what phase of the sentencing process in which that decision is made; to eliminate the courts and assign it to the Division of Motor Vehicles, possibly at a time when a limited license is issued. Mr. Luckhaupt said that he was directed to work the first proposal, which is close to what currently exists in statute. The mayor suggested altering Title 12, which is criminal procedure statute. The difficulty with the aforementioned is that all of the state's sentencing procedures for drunk driving are in Title 28. Therefore, placing this in Title 12 is problematic because those dealing with sentencing or the crime of drunk driving wouldn't know to look there for sentencing. The aforementioned led to the suggestion being placed in Title 28 since it's a drunk driving provision. The greater decision for the committee is whether to go with the original legislation requiring ignition interlock. The aforementioned was applied statewide under the Alaska Uniform Traffic Laws Act. The Act was established in order that folks traveling through different areas of the state would know what is expected of them. Therefore, municipalities are expected to

change the municipal code to be consistent with the provisions of the uniform traffic code, although at times the legislature has decided to exempt certain municipalities from the code.

[9:21:07 AM](#)

REPRESENTATIVE NEUMAN asked if and when the state has sent notice to municipalities regarding this uniform Act and any changes to it. He mentioned the difficulty of smaller areas with limited resources to comply with something like this, even if the area is notified.

MR. LUCKHAUPT explained that annually each municipality with its own municipal traffic code is required to send a copy of its traffic code to the state. Furthermore, every municipality has the option to adopt the Uniform Traffic Laws Act. He noted that many of the smaller municipalities don't have their own traffic code and thus merely adopt the state's code. The first chapter of Title 28 sets forth the procedure and municipalities are required to identify their traffic laws using similar numbers to the state's code or specifically adopt and cite the state's code. With regard to when the legislature amends laws, Mr. Luckhaupt related his assumption that the DMV has a procedure for notifying communities. He pointed out that until MOA's difficulty with the ignition interlock law with which the Anchorage municipal attorney had issues and didn't notify the Anchorage Assembly about the change, there hasn't been a compliance issue with municipalities with their own traffic code.

[9:24:24 AM](#)

REPRESENTATIVE NEUMAN requested Mr. Luckhaupt's help in drafting a letter to distribute to the smaller communities in order to inform them of state law.

[9:24:58 AM](#)

MR. LUCKHAUPT, in response to Co-Chair Fairclough, said that MOA's traffic code is on file with DMV, the Legislative Reference Library, and on the Internet as well. Mr. Luckhaupt said that a year ago he did perform research from which he came to know that MOA hasn't amended it's traffic code to reflect this change in law in 2004.

CO-CHAIR FAIRCLOUGH related her understanding that the existing [ignition interlock] law should be implemented in its entirety.

MR. LUCKHAUPT opined that the law is in effect and any MOA code that isn't consistent with state law falls by the wayside. There have been a number of situations in which MOA has attempted to create more stringent penalties for drunk drivers than state law provides. Because of it was less favorable to the defendant, the defendant would raise the issue and it would be taken to the courts and the MOA ordinance would be struck down because it was inconsistent with state law. However, [MOA not applying the ignition interlock law is beneficial to the defendants who along with MOA aren't going to raise the issue. Therefore, defendants in MOA are receiving a lesser sentence than those elsewhere in the state. In further response to Co-Chair Fairclough, Mr. Luckhaupt related that if MOA continues to ignore the Alaska Uniform Traffic Laws Act, the attorney general would have options such as a declaratory judgment and extraordinary writs.

[9:28:46 AM](#)

CO-CHAIR LEDOUX asked if Version C is tight enough that MOA has to enforce the [ignition interlock law].

MR. LUCKHAUPT said there's no wiggle room that would allow MOA to not enforce [the ignition interlock law]. Furthermore, the 2004 law with which MOA had problems has been changed to reflect and address MOA's concerns.

[9:29:27 AM](#)

MR. LUCKHAUPT, in response to Representative Neuman, pointed out that if communities aren't using their own local traffic codes, they're using the Alaska Uniform Traffic Laws Act and the regulations adopted by the Department of Transportation & Public Facilities already. In further response to Representative Neuman, Mr. Luckhaupt explained that a municipal police officer, just as a state trooper, can cite an individual under the state or the municipal traffic code. For example, a number of years ago Fairbanks eliminated all of its municipal prosecutors and criminal enforcement, and thus Fairbanks police officers cite individuals under the state law for all traffic offenses committed within the municipality.

[9:32:07 AM](#)

CO-CHAIR FAIRCLOUGH inquired as to why the sponsor brought forth legislation rather than requesting a declaratory judgment.

[9:35:08 AM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, sponsor of HB 101, related that it was his personal philosophy. He related that he contacted officials within MOA, which resulted in a response from the mayor who suggested remedies. Therefore, he wanted to work with those involved.

[9:36:29 AM](#)

CO-CHAIR FAIRCLOUGH commented that she would leave it to the sponsor regarding whether ultimately the attorney general must be brought in to deal with the situation.

[9:37:17 AM](#)

REPRESENTATIVE OLSON asked if the sponsor would entertain a friendly amendment to hold any road funds until MOA is in compliance.

REPRESENTATIVE GATTO said, "I'll fall on my sword to get drunks out of their cars."

[9:38:31 AM](#)

CO-CHAIR LEDOUX, upon determining no one else wished to testify, closed public testimony.

[9:39:07 AM](#)

REPRESENTATIVE OLSON highlighted that it's the second time no one from MOA has appeared during the hearing of HB 101, which he remarked was disappointing.

[9:39:21 AM](#)

REPRESENTATIVE OLSON moved to report CSHB 101, Version 25-LS0262\C, Luckhaupt, 3/12/07, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 101(CRA) was reported from the House Community and Regional Affairs Standing Committee.

[9:40:04 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 9:40 a.m.