

HOUSE FINANCE COMMITTEE  
February 21, 2007  
1:42 p.m.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:42:02 PM](#).

MEMBERS PRESENT

Representative Mike Chenault, Co-Chair  
Representative Kevin Meyer, Co-Chair  
Representative Bill Stoltze, Vice-Chair  
Representative Harry Crawford  
Representative Les Gara  
Representative Mike Hawker  
Representative Reggie Joule  
Representative Mike Kelly  
Representative Mary Nelson  
Representative Bill Thomas, Jr.

MEMBERS ABSENT

Representative Richard Foster

ALSO PRESENT

Eleanor Wolfe, Staff, Representative Kurt Olson; Al Clough, Deputy Commissioner, Department of Commerce, Community and Economic Development, Chairman of the Marine Pilot's Board; Captain Larry Vose, President of Southeast Pilots Association; Rick Urion, Director, Division of Occupational Licensing; Representative Bob Lynn; Dirk Moffatt, Staff, Representative Bob Lynn

PRESENT VIA TELECONFERENCE

Clyde (Ed) Sniffen Jr., Assistant Attorney General, Department of Law; Sonia Subani, AARP Alaska; Theresa Bannister, Attorney, Legislative Legal Services

SUMMARY

HB 108 "An Act extending the termination date for the Board of Marine Pilots; and providing for an effective date."

CSHB 108 (L&C) was REPORTED out of Committee with a "do pass" recommendation and with a fiscal note by the House Finance Committee for the Department of Commerce, Community and Economic Development.

HB 7 "An Act relating to false caller identification."

CSHB 7 (FIN) was heard and HELD in Committee for further consideration.

[1:42:13 PM](#)

HOUSE BILL NO. 108

"An Act extending the termination date for the Board of Marine Pilots; and providing for an effective date."

ELEANOR WOLFE, STAFF, REPRESENTATIVE KURT OLSON, explained that HB 108 extends the Board of Marine Pilots until 2013. She offered to answer questions.

[1:45:14 PM](#)

RICK URION, DIRECTOR, DIVISION OF OCCUPATIONAL LICENSING, observed that the Board of Marine Pilots comes under his division. He spoke in support of the bill and offered to answer questions.

[1:46:05 PM](#)

AL CLOUGH, DEPUTY COMMISSIONER, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, CHAIR OF THE BOARD OF MARINE PILOTS, stated support for the bill and offered to answer questions.

Co-Chair Chenault asked if marine pilots only pilot foreign flag vessels in Alaskan waters. Mr. Clough replied that foreign flag vessels are required to have a U.S. Marine Pilot on board; other vessels may choose to have a pilot on board. Most of the American flag tankers out of Valdez choose to have a licensed marine pilot.

Representative Stoltze asked if large foreign flag pleasure craft need a marine pilot. Mr. Clough replied that there is an exemption for yachts up to 175 feet.

[1:48:23 PM](#)

Co-Chair Meyer wondered if there is a penalty to the association or the pilot if the pilot is not enrolled in a drug testing program. Mr. Clough explained that pilots are required by the Coast Guard and by state regulation to be enrolled in such a program. The issues brought out in the audit were related to record keeping.

Co-Chair Meyer asked what the penalty is if drug testing is not done. Mr. Clough said it is a requirement and there currently is no problem with lack of compliance.

[1:50:36 PM](#)

Representative Stoltze asked about a requirement for drug testing for pleasure crafts. Mr. Clough explained that it is not the state's issue because there is not a pilot on board. If there were an incident, then the Coast Guard would respond.

[1:51:55 PM](#)

CAPTAIN LARRY VOSE, PRESIDENT OF SOUTHEAST PILOTS ASSOCIATION, stated support for HB 108. He elaborated on the previous question regarding U.S. flag vessels. There are two types of pilots, federal and state. Federal pilots apply to U.S. flag vessels. The vessels that go to Valdez have both federal and state pilots on board. All state pilots have to have a federal pilot license as a prerequisite. A vessel has to be over 1,600 tons to require a federal pilot. Regarding the drug testing requirement, it is a condition of employment and the pilot has to show evidence of compliance in order to dispatch.

Representative Stoltze asked for a definition of a marine pilot. Captain Vose related the qualifications for marine pilots.

[1:56:34 PM](#)

Co-Chair Meyer asked where the pilots board oil tankers up north. Captain Vose explained regional boarding procedures.

Representative Joule asked if the pilot associations are closed and if applicants must receive an invitation to join. He also wondered about age restrictions. Captain Vose explained the current competitive process for application to become a marine pilot. He maintained it is a fair and open process. Captain Vose noted it takes about seven years to become a fully licensed pilot.

Co-Chair Chenault asked about state vs. federal pilot limits in the Gulf of Alaska as they relate to oil spills. Captain Vose explained that federal pilotage waters are from three miles out, inward - the United States territorial seas. State pilotage boundaries are within the inside waters of the state.

[2:03:40 PM](#)

Representative Gara questioned the marine pilot involvement as it related to the Exxon Valdez. Captain Vose said that the accident happened after the marine pilot was off the ship. The pilot station has since been moved seaward. He spoke of difficulties of providing pilots in all areas and the safety issues of boarding the ships.

[2:06:33 PM](#)

Co-Chair Meyer noted a new fiscal note written by the House Finance Committee for the Department of Commerce, Community and Economic Development.

Representative Hawker MOVED to report CSHB 108 out of Committee with individual recommendations and the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 108 (L&C) was REPORTED out of Committee with a "do pass" recommendation and with a fiscal note by the House Finance Committee for Department of Commerce, Community and Economic Development.

[2:07:26 PM](#)

HOUSE BILL NO. 7

"An Act relating to false caller identification."

Representative Hawker MOVED to ADOPT the work draft to HB 7, labeled 25-LS0057\L, Bannister, 2/20/07. There being NO OBJECTION, it was so ordered.

[2:08:10 PM](#)

REPRESENTATIVE BOB LYNN, sponsor, warned the committee that the name seen on one's Caller ID may not be the person who is actually calling. He presented various scenarios of false information appearing on Caller ID systems. He termed HB 7 a proactive bill.

[2:10:47 PM](#)

DIRK MOFFATT, STAFF, REPRESENTATIVE BOB LYNN, explained that the CS in front of the committee today has changed a lot from the House Judiciary Committee version. He explained that the technology to fool Caller ID is not new. A simple calling card can put false information on a Caller ID system.

Mr. Moffatt related that HB 7 says if someone makes a false identification call, attempting to defraud, that person is guilty of a Class B or a Class A misdemeanor, depending on how many calls are made.

[2:13:05 PM](#)

Co-Chair Meyer asked why there are two classes of misdemeanor. Mr. Moffatt replied that originally it was a Class B crime, but the addition of Class A addresses someone

who makes many of calls. The number five came from a scheme to defraud statute.

[2:14:08 PM](#)

Representative Crawford spoke in support of the bill.

Representative Gara recalled seeing the bill last session. He mentioned candidate poll surveys where a candidate's name is concealed, wondering if the bill addresses that situation. Representative Lynn replied that the bill applies to all false Caller ID's. Mr. Moffatt emphasized that the aim of the bill is at those who attempt to defraud.

Representative Gara asked about research polls. Mr. Moffatt opined that they are not fraud.

[2:16:43 PM](#)

Representative Hawker referred to a memo (February 8, 2007, Theresa Bannister, Legislative Legal Services) in members' packets that may raise due process issues. He requested an explanation of those issues and whether or not they have been resolved. Mr. Moffatt deferred to Mr. Sniffen and Terry Bannister to answer that question.

[2:17:55 PM](#)

SONIA SUBANI, AARP Alaska, related that older persons are more vulnerable to telephone fraud. She related a personal experience of fraudulent Caller ID.

Co-Chair Meyer closed public testimony.

CLYDE (ED) SNIFFEN JR., ASSISTANT ATTORNEY GENERAL, DEPARTMENT OF LAW, explained the differences between the various versions of HB 7. He reported that in the Judiciary Committee the focus was on the definition of a violation and how to make the crimes specific to the display of information as it appears on someone's phone. The intention was to make the bill easier to understand and enforce.

[2:23:14 PM](#)

Co-Chair Meyer asked how many complaints there have been regarding this issue. Mr. Sniffen said that there have been many indirect complaints from victims of identity theft. Co-Chair Meyer wondered if it would be difficult to prove this as criminal action. He suspected that most would fall under civil action. Mr. Sniffen replied most would fall under the civil division rather than the criminal side. Legal efforts would be focused on the criminal class - Class A offenses. Co-Chair Meyer asked if Mr. Sniffen was comfortable having two classes of misdemeanors. Mr. Sniffen

said he could understand the sponsor's logic for having the two classes. Co-Chair Meyer said he would go along with the Judiciary Committee's version of the bill.

Representative Lynn noted that the degree of violation was a concern of the Judiciary Committee.

[2:27:40 PM](#)

Representative Crawford asked what the rules currently are for client identification regarding polls. Mr. Sniffen related that there are rules regarding telemarketing, but not for political polls. Intentional deception would be considered fraud.

Representative Crawford asked if it is a crime if a pollster gives the impression that a poll is research. Mr. Sniffen replied that if a reasonable consumer would be misled, then it would be fraud.

[2:30:42 PM](#)

Representative Gara posed a hypothetical situation involving two political opponents. He wondered if such conduct is currently allowed. Mr. Sniffen thought that the bill was directed at more obvious conduct.

[2:32:05 PM](#)

Representative Hawker asked if the due process questions were addressed. Mr. Sniffen replied that one of the issues was ambiguous language as to the number of calls that would qualify for Class A and Class B. Representative Hawker asked Ms. Bannister to reply.

[2:33:17 PM](#)

THERESA BANNISTER, ATTORNEY, LEGISLATIVE LEGAL SERVICES, thought work draft version L was fine.

Representative Hawker questioned the meaning of "the call or other conduct resulting in false information being displayed to fewer or more than five recipients". He wondered about multiple calls to the same recipient. Mr. Sniffen thought that each separate display would be a separate violation.

Ms. Bannister explained that it depends on the type of the call. Representative Hawker summarized that if one perpetrator made 10 calls to the same recipient it would be a Class B misdemeanor - fewer than five recipients. Ms. Bannister said yes. Representative Hawker asked if that was the sponsor's intent.

Mr. Sniffen explained the intent was if someone made five displays on a Caller ID system it would count as a Class A misdemeanor. Representative Hawker termed that conflicting testimony. Ms. Bannister suggested the language could be re-written. Co-Chair Meyer suggested going back to the original bill.

[2:38:12 PM](#)

Representative Lynn replied that he was agreeable to going back to the original bill, but did not want to undo the work of the Judiciary Committee. Co-Chair Meyer thought the bill was confusing as worded. He asked Ms. Bannister if the bill was returned to "one call, one crime" if any due process issues would come up.

Ms. Bannister did not believe the original [A] version would be problematic. Mr. Sniffen clarified that the difficulty with the K version would be in section (a) "A person may not knowingly make a call and insert false information into a caller identification system with the intent to defraud." It would be hard to determine who inserts the false information, a person who inputs information into a computer, or the operator who makes the phone call. The "caller identification system" is defined in Version K to mean a listing of a caller's name, telephone number, or name and telephone number that is shown to a recipient of a call when the recipient answers. Mr. Sniffen thought that was confusing and was intended to mean a telephone. Version L tried to clarify that language. He suggested using Version L and re-working (c).

Co-Chair Meyer stated his intent to hold the bill over and to work further with the sponsor on it.

[2:43:02 PM](#)

Representative Stoltze referred to the abuse of privacy provisions related to phones for people with disabilities. He wondered if that circumstance could be addressed. Mr. Sniffen was not familiar with federal laws.

[2:45:29 PM](#)

Co-Chair Chenault questioned how many cases have occurred in Alaska. Ms. Subani did not know.

Co-Chair Chenault observed that there were several zero fiscal notes associated with the legislation, with the exception of the Department of Public Safety. He pointed out the lack of a fiscal note from the Department of Corrections. In response to a hypothetical scenario by Co-Chair Chenault, Mr. Sniffen agreed it was fraud.

[2:49:37 PM](#)

Discussion followed regarding zero and indeterminate fiscal notes that would result from increased costs. Co-Chair Chenault suggested that the number of cases would increase and costs would ensue.

CSHB 7 (FIN) was heard and HELD in Committee for further consideration.

ADJOURNMENT

The meeting was adjourned at 2:54 PM.