

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

April 20, 2007

1:06 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 181

"An Act relating to traffic offenses and traffic offenses committed in a school zone; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 164

"An Act relating to reporting of vessel location by certain commercial passenger vessels operating in the marine waters of the state, to access to vessels by licensed marine engineers for purposes of monitoring compliance with state and federal requirements, and to the obligations of those engineers while aboard the vessels; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 3

"An Act relating to issuance of identification cards and to issuance of driver's licenses; and providing for an effective date."

- HEARD AND HELD

HOUSE BILL NO. 213

"An Act relating to an aggravating factor at sentencing for crimes committed at certain shelters and facilities."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 181

SHORT TITLE: TRAFFIC OFFENSES: FINES/SCHOOL ZONES

SPONSOR(S): REPRESENTATIVE(S) WILSON

03/07/07	(H)	READ THE FIRST TIME - REFERRALS
03/07/07	(H)	HES, JUD
03/22/07	(H)	HES AT 3:00 PM CAPITOL 106
03/22/07	(H)	Heard & Held
03/22/07	(H)	MINUTE(HES)
03/27/07	(H)	HES AT 3:00 PM CAPITOL 106
03/27/07	(H)	Heard & Held
03/27/07	(H)	MINUTE(HES)
04/03/07	(H)	HES AT 3:00 PM CAPITOL 106
04/03/07	(H)	Moved CSHB 181(HES) Out of Committee
04/03/07	(H)	MINUTE(HES)
04/10/07	(H)	HES RPT CS(HES) 5DP 1DNP 1AM
04/10/07	(H)	DP: CISSNA, FAIRCLOUGH, SEATON, ROSES, WILSON
04/10/07	(H)	DNP: GARDNER
04/10/07	(H)	AM: NEUMAN
04/10/07	(H)	FIN REFERRAL ADDED AFTER JUD
04/20/07	(H)	JUD AT 1:00 PM CAPITOL 120

BILL: HB 164

SHORT TITLE: OCEAN RANGERS & REPORTING VESSEL LOCATION

SPONSOR(S): TRANSPORTATION

02/28/07	(H)	READ THE FIRST TIME - REFERRALS
02/28/07	(H)	TRA, FIN
03/08/07	(H)	TRA AT 1:30 PM CAPITOL 17
03/08/07	(H)	Heard & Held
03/08/07	(H)	MINUTE(TRA)
03/13/07	(H)	TRA AT 1:30 PM CAPITOL 17
03/13/07	(H)	Moved Out of Committee
03/13/07	(H)	MINUTE(TRA)
03/14/07	(H)	TRA RPT 2DP 1DNP 3NR
03/14/07	(H)	DP: KOHRING, JOHANSEN
03/14/07	(H)	DNP: DOOGAN
03/14/07	(H)	NR: FAIRCLOUGH, JOHNSON, NEUMAN
03/14/07	(H)	JUD REFERRAL ADDED AFTER TRA

03/28/07 (H) JUD AT 1:00 PM CAPITOL 120
 03/28/07 (H) Heard & Held
 03/28/07 (H) MINUTE(JUD)
 04/13/07 (H) JUD AT 1:00 PM CAPITOL 120
 04/13/07 (H) <Bill Hearing Canceled>
 04/16/07 (H) JUD AT 1:00 PM CAPITOL 120
 04/16/07 (H) <Bill Hearing Rescheduled to 04/18/07>
 04/18/07 (H) JUD AT 1:00 PM CAPITOL 120
 04/18/07 (H) -- MEETING CANCELED --
 04/20/07 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 3

SHORT TITLE: REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

SPONSOR(S): REPRESENTATIVE(S) LYNN

01/16/07 (H) PREFILE RELEASED 1/5/07
 01/16/07 (H) READ THE FIRST TIME - REFERRALS
 01/16/07 (H) STA, JUD
 02/27/07 (H) STA AT 8:00 AM CAPITOL 106
 02/27/07 (H) Scheduled But Not Heard
 03/01/07 (H) STA AT 8:00 AM CAPITOL 106
 03/01/07 (H) Scheduled But Not Heard
 03/06/07 (H) STA AT 8:00 AM CAPITOL 106
 03/06/07 (H) Moved Out of Committee
 03/06/07 (H) MINUTE(STA)
 03/07/07 (H) STA RPT 3DP 2DNP 2NR
 03/07/07 (H) DP: JOHNSON, ROSES, LYNN
 03/07/07 (H) DNP: GRUENBERG, DOLL
 03/07/07 (H) NR: JOHANSEN, COGHILL
 03/07/07 (H) FIN REFERRAL ADDED AFTER JUD
 04/20/07 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

REPRESENTATIVE PEGGY WILSON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 181.

ROBB MYERS, Intern

to Representative Peggy Wilson

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Presented HB 181 on behalf of the sponsor, Representative Wilson.

BILL CHEESEMAN, Pupil Transportation Supervisor

Transportation Department
Matanuska-Susitna Borough School District (MSBSD)
Department of Education and Early Development (EED)
Wasilla, Alaska

POSITION STATEMENT: Encouraged passage of HB 181.

LINDA JANOUSEK, Transportation Manager
Transportation Department
North Slope Borough School District (NSBSD)
Department of Education and Early Development (EED)
Barrow, Alaska

POSITION STATEMENT: Testified in support of HB 181.

DENNIS COOK, Coordinator
Bus & Transportation Department
Fairbanks North Star Borough School District (FNSBSD)
Department of Education and Early Development (EED)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 181.

ROBERT "BOB" MYERS
Fairbanks, Alaska

POSITION STATEMENT: Testified in favor of HB 181.

RANDALL RUARO, Staff
to Representative Kyle Johansen
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided testimony during discussion of HB 164 on behalf of the House Transportation Standing Committee, which sponsored the bill and which is chaired by Representative Johansen.

LYNN TOMICH KENT, Director
Division of Water
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 164.

RUTH HAMILTON HESSE, Assistant Attorney General
Environmental Section
Civil Division (Juneau)
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 164.

DUANE BANNOCK, Director
Division of Motor Vehicles (DMV)
Department of Administration (DOA)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 3.

BILL SCANNELL
The Identity Project (IDP)
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 3.

MATTHEW KERR
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 3.

ANASTASIA MIRONOVA
Salt Lake City, Utah

POSITION STATEMENT: Provided comments during discussion of HB 3.

MICHAEL "WES" MACLEOD-BALL, Executive Director
Alaska Civil Liberties Union (AkCLU)
Anchorage, Alaska

POSITION STATEMENT: Provided comments and responded to questions during discussion of HB 3.

ACTION NARRATIVE

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at [1:06:21 PM](#). Representatives Dahlstrom, Coghill, Samuels, Lynn, Holmes, and Ramras were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

HB 181 - TRAFFIC OFFENSES: FINES/SCHOOL ZONES

[1:06:43 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 181, "An Act relating to traffic offenses and traffic offenses committed in a school zone; and providing for an effective date." [Before the committee was CSHB 181(HES).]

[1:07:34 PM](#)

REPRESENTATIVE PEGGY WILSON, Alaska State Legislature, sponsor, relayed that HB 181 pertains to the safety of school children, and that her staff would be presenting the bill.

1:08:04 PM

ROBB MYERS, Intern to Representative Peggy Wilson, Alaska State Legislature, explained on behalf of Representative Wilson that the legislature has already established double traffic fines for violations occurring in either highway work zones or traffic safety corridors, and that HB 181 will establish double traffic fines for violations that occur in school zones so as to provide extra protection to children. According to statistics, a child traveling on foot who is struck by a motor vehicle has a 90 percent chance of surviving if the motor vehicle is traveling at 20 mph, and only a 55 percent chance of survival if the motor vehicle is traveling at 30 mph. Nationwide, 20,000 children are injured every year as a result of being struck by vehicles while on foot, with up to half of those injuries requiring hospitalization. Washington state recently adopted a measure similar to what HB 181 proposes, and has experienced a decrease of collisions in school zones since then.

MR. ROBB MYERS relayed that Section 1 adds the words "school zone" to AS 28.05.151(d), and that Section 2 provides that repeat offenders will be assessed double the points normally assessed for such violations if a second or subsequent offense occurs within 24 months of the first offense. Section 2 is meant to provide an extra deterrent, since only providing for elevated fines has not proven to be an effective deterrent. Section 3 raises the maximum fine provided for in AS 28.90.010(c) from \$300 to \$1,000; he indicated that Legislative Legal and Research Services requested this proposed change. Section 4 pertains to signage requirements and allows for automated technology, and Section 5 provides a definition of the term, "school zone".

MR. ROBB MYERS offered that Section 4's definition acknowledges distinctions between urban and rural school zone signage; for example, the Department of Transportation & Public Facilities (DOT&PF) doesn't bother to put up school zone signs in many rural areas because it fears that people will simply start ignoring them and so would rather just put up signs in urban areas. The DOT&PF currently uses three types of signs: one type says "when flashing" [and has a flashing light], one type says, "from 7 a.m. to 5 p.m. schooldays", and one type says "when children present". However, the department has indicated

that it is "moving away from those last two in favor of the one with the flashing light," he added. Essentially, the fines and penalties provided for by HB 181 would only apply during the times/circumstances indicated on the signage.

MR. ROBB MYERS relayed that Section 6 annuls 13 AAC 02.325(d) and 13 AAC 03.325(d), both of which provide a current definition of "school zone" and set the speed limit at 20 mph. Section 7 provides an effective date of 7/1/2012 for Section 2 of the bill, thereby allowing the Division of Motor Vehicles (DMV) time to implement that provision.

[1:15:12 PM](#)

CHAIR RAMRAS said he wants to ensure that a person can't lose his/her driver's license for a single violation.

REPRESENTATIVE LYNN questioned whether an assessment of points also affects one's insurance rates.

MR. ROBB MYERS surmised that that is the case. In response to a question, he again explained that Section 2 - providing for the assessment of double points - pertains only to a second or subsequent violation that occurs within 24 months of the initial violation. Section 8 provides for a 7/1/07 effective date for the remainder of the bill, thus allowing people time to become aware of this new law before the next school year starts.

MR. ROBB MYERS, in response to comments and questions, explained that municipalities often institute ordinances that mirror state law - and offered some examples - and that although the vast majority of speeding violations in school zones occur in Anchorage, the sponsor feels that HB 181 will address a state-wide problem.

REPRESENTATIVE SAMUELS asked how fast the DOT&PF will get all the signs replaced with the type that have a flashing light.

MR. ROBB MYERS suggested that a representative from the department could better address that question.

[1:23:43 PM](#)

BILL CHEESEMAN, Pupil Transportation Supervisor, Transportation Department, Matanuska-Susitna Borough School District (MSBSD), Department of Education and Early Development (EED), said he wishes to encourage approval of HB 181. He opined that given

that the legislature has taken steps to safeguard highway construction workers, it is appropriate to provide the same protection to school children in school zones via similar fines/penalties. In response to comments and questions, he said that the MSBSD is attempting to get the type of signage that has flashing lights installed at all of its school zones - currently only about 50 percent of the signs are of that type - and that some of its school zones do have signage marking the end of the school zone.

1:28:24 PM

LINDA JANOUSEK, Transportation Manager, Transportation Department, North Slope Borough School District (NSBSD), Department of Education and Early Development (EED), relayed that the same problem exists in the NSBSD - the end of a school zone is not clearly marked - adding that the elementary schools have signage with flashing lights but neither the high school nor junior high school have such signage. She said that she and 27 others [in the NSBSD] support HB 181.

REPRESENTATIVE SAMUELS asked whether the North Slope Borough could simply address this problem at the local level.

MS. JANOUSEK offered her belief that local enforcement and prosecution would be more likely to occur if the proposed fines/penalties were instituted at the state level.

REPRESENTATIVE GRUENBERG questioned who would be paying for HB 181's associated enforcement and prosecution efforts.

1:33:48 PM

DENNIS COOK, Coordinator, Bus & Transportation Department, Fairbanks North Star Borough School District (FNSBSD), Department of Education and Early Development (EED), said that he is in support HB 181. In response to earlier questions, he relayed that all of the FNSBSD's school zones that have signage with flashing lights either have "end of school zone" signage or, at the location where the flashing light signs instruct those going in the opposite direction, signage listing the regular posted speed. He explained that he has received numerous complaints over the year, both from crossing guards and parents, regarding vehicles speeding through the school zones. Given the winter darkness, ice fog, and hazardous walking conditions, he said he thinks HB 181 is a good idea and will increase safety for the district's school children. He

mentioned that he has personally witnessed vehicles traveling very fast through school zones, and opined that the threat of double fines will help eliminate those occurrences.

REPRESENTATIVE COGHILL questioned whether the state is currently enforcing existing law with regard to speeding violations in school zones.

CHAIR RAMRAS said that he is in favor of safer speeds in school zones to protect children, but noted that he's received numerous complaints from constituents regarding the lack of signage in certain school zones. He indicated that he is concerned that HB 181 won't actually solve the problem of inadequate signage.

MR. COOK said he would like to see signage with flashing lights put up because that type of signage actually gets the attention of drivers.

CHAIR RAMRAS concurred, and surmised that the lack of clear signage indicating the ending of school zones is also problematic.

MR. COOK concurred, and reiterated that signage with flashing lights will help drivers become aware that they are traveling through a school zone.

REPRESENTATIVE LYNN opined that the signage issue really needs to be addressed, but surmised that HB 181 won't actually do that.

REPRESENTATIVE GRUENBERG suggested that HB 181 [be changed] such that it provides school districts with financial assistance in making school zones safer.

[1:48:05 PM](#)

ROBERT "BOB" MYERS said that as a father and grandfather, he visits three different school zones each afternoon to pick up his children and grandchildren, and travels through two other school zones en route, and he is very alarmed by some of the driving habits of others - speeding, tailgating, not stopping for children in a crosswalk. It is just a matter of time, he opined, before a child gets hit by a car in a school zone. He said he also works for the school district and has been doing duty as a crossing guard for eight years, and he feels that if he weren't out there, the situation would be much worse than it is currently, adding that even now he sees drivers speeding all

the time. He said he would like to see the types of drivers who intentionally violate traffic safety laws in school zones prosecuted.

CHAIR RAMRAS concurred. He then read a portion of the fiscal note analysis provided by the DOT&PF [original punctuation provided]:

DOT&PF assumed that double fine signs will be installed below current speed limit school signs. 148 double fine signs will be installed on state roads at a cost of \$80/sign. It is estimated that it will take 2 hours to install each sign with mobilization and travel time.

Currently photoradar is not being used, however if it were to be used, DOT would be required to replace the already installed double fine signs with signs that say "double fines and photo radar in use".

Additionally this fiscal analysis does not include the cost of putting up double fine signs at schools that are not on state roads. DOT estimates 256 signs are needed for schools on non state roads.

CHAIR RAMRAS said he doesn't mind instituting double fine zones for those school zones that are clearly marked at both ends but not for those that aren't.

REPRESENTATIVE GRUENBERG said he is concerned about what he characterized as the over-breadth of Section 3; the proposed fine increase to \$1,000 appears to apply to everything from jaywalking on down.

MR. ROBB MYERS explained that Section 3 was added because of a concern that doubling the fines as Section 1 proposes would exceed the existing fine cap, and so Section 3 proposes to raise that cap, not actually raise all the fines. He also offered his understanding that if a violation or an infraction only results in the person being subject to a fine, a jury trial would not be required.

REPRESENTATIVE GRUENBERG offered his understanding, though, that in Baker v. City of Fairbanks, the court held that if there is a possibility that a person could be incarcerated, be subject to a substantial fine, or lose a valuable license, he/she would be entitled to a jury trial.

1:58:14 PM

REPRESENTATIVE SAMUELS asked how many tickets have been issued at the existing \$300 limit, and how many injuries to, or fatalities of, school children in a school zone during school hours have taken place in Alaska and in the nation.

MR. ROBB MYERS said he doesn't have statistics regarding the existing \$300 fine limit, but in 2006, 433 speeding citations were issued in school zones in Alaska with 284 of those being issued in Anchorage and 61 and 69 being issued in Fairbanks and Juneau respectively. Most other communities either had none issued or just a few issued. Nationwide, there were approximately 20 fatalities and 20,000 injuries; in Alaska, in 2004, there were four minor injuries and two major injuries.

CHAIR RAMRAS surmised that the question is whether increasing fines and points assessed will result in better driving.

MR. ROBB MYERS, in response to comments, said he'd looked at data pertaining to the doubling of fines in construction zones, and that data - from 2002 through 2004 - indicated that the number of accidents had dropped from 216 down to 143; during that same time period, traffic accidents in general increased from just under 6,000 to just over 7,000.

REPRESENTATIVE COGHILL pointed out that in construction zones, there are a lot of visual aids to notify drivers that they are entering such zones, and so it is not a fair comparison to make given that signage at school zones is still a big issue; proper signage could prove quite effective in and of itself in reducing this problem.

REPRESENTATIVE GRUENBERG sought and received confirmation that the department sets the amount of the fine for the various infractions/violations. He then asked why Section 7 specifies that Section 2 won't take effect for five years.

MR. ROBB MYERS said that that effective date was provided for at the request of the DMV to allow it time to develop tracking codes and acquire a new computer system; also, it could be that merely instituting the double fine scheme will be sufficient, and so providing this extra time will allow the legislature to see whether the double point assessment provision is still needed.

2:04:36 PM

CHAIR RAMRAS announced that public testimony was closed, and noted that the committee would be holding the bill over in order to give the sponsor time to address members' concerns, particularly with regard to signage and perhaps an exemption that would apply when signage is not adequate. He said he is assuming the fiscal note would increase in instances where posting the end of a school zone actually requires installing signage, not just changing or adding to the signage that is already in place, and where signage is installed on non state roads.

[HB 181 was held over.]

HB 164 - OCEAN RANGERS & REPORTING VESSEL LOCATION

2:07:02 PM

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 164, "An Act relating to reporting of vessel location by certain commercial passenger vessels operating in the marine waters of the state, to access to vessels by licensed marine engineers for purposes of monitoring compliance with state and federal requirements, and to the obligations of those engineers while aboard the vessels; and providing for an effective date." [Left pending from the hearing on 3/28/07 was the motion to adopt Amendment 1.]

CHAIR RAMRAS turned the gavel over to Vice Chair Dahlstrom.

CHAIR RAMRAS withdrew Amendment 1, labeled 25-LS0585\A.1, Kane, 3/28/07, which read:

Page 1, line 4, following "**vessels;**":

Insert "**creating the Alaska ocean protection and enhancement fund and the Alaska ocean protection and enhancement program;**"

Page 2, following line 21:

Insert a new bill section to read:

"* **Sec. 4.** AS 46.03 is amended by adding new sections to read:

Sec. 46.03.483. Alaska ocean protection and enhancement fund. (a) The Alaska ocean protection and enhancement fund is established as a sub-account in

the commercial passenger vessel environmental compliance fund established in AS 46.03.482.

(b) The sub-account established in (a) of this section consists of the following, all of which shall be deposited in the sub-account on receipt:

(1) money received by the department in payment for fees under AS 46.03.480(d);

(2) money appropriated to the sub-account by the legislature;

(3) money received by the department from private sources to be expended on the Alaska ocean protection and enhancement program established in AS 46.03.484; and

(4) earnings on the sub-account.

(c) The legislature may make appropriations from the sub-account to

(1) pay for the Ocean Ranger program established in AS 46.03.476;

(2) fund grants under the Alaska ocean protection and enhancement program established in AS 46.03.484; and

(3) fund the activities of the Alaska Ocean Protection and Enhancement Advisory Board established in AS 46.03.484(b).

(d) Nothing in this section creates a dedicated fund.

Sec. 46.03.484. Alaska ocean protection and enhancement program. (a) There is established in the department the Alaska ocean protection and enhancement program. The commissioner may, in consultation with the Alaska Ocean Protection and Enhancement Advisory Board established in (b) of this section, award grants to eligible applicants for

(1) studies to assess the effects from vessel traffic on air quality, water quality, and marine life in and near Alaska marine water and to recommend mitigation and prevention of adverse effects;

(2) activities to remediate or clean up pollution or debris from vessel traffic in or near Alaska marine water;

(3) educational programs designed to inform the public about the importance of maintaining air and water quality standards for Alaska's marine water; and

(4) other activities that the commissioner determines will foster the protection and enhancement of Alaska marine water.

(b) There is established the Alaska Ocean Protection and Enhancement Advisory Board consisting of not more than seven and not fewer than five members, as determined by the commissioner. The governor shall appoint the board members. The governor shall appoint at least two members of the board from nominations provided by the owners or operators of large commercial passenger vessels and at least two members from nominations provided by nonprofit corporations eligible to receive grants under this section. Members of the advisory board serve without compensation but are entitled to per diem and travel expenses as authorized under AS 39.20.180.

(c) The department shall adopt regulations for the administration of the Alaska ocean protection and enhancement program, including

- (1) additional criteria for eligible applicants and eligible projects;
- (2) application forms and deadlines for receiving applications;
- (3) grant evaluation criteria; and
- (4) audit and other procedures to ensure proper expenditure of grant funds.

(d) In this section, "eligible applicant" means

- (1) a nonprofit corporation organized under the laws of this state if the corporation has been in existence for at least two years at the time of the grant application and has as one of its purposes the promotion of air or water quality in Alaska marine water or the protection of marine life in Alaska marine water;
- (2) a municipality that demonstrates potential effects from vessel traffic in the marine water within the boundaries of the municipality;
- (3) an entity under federal law that demonstrates potential effects from vessel traffic within the areas of subsistence use; or
- (4) other entities that the commissioner determines are affected by effects of vessel traffic in Alaska marine water."

Renumber the following bill sections accordingly.

[2:10:05 PM](#)

RANDALL RUARO, Staff to Representative Kyle Johansen, Alaska State Legislature, speaking on behalf the House Transportation

Standing Committee, sponsor of HB 164, relayed that the legislature's broad power to amend an initiative is granted by Article XI, Section 6, of the Alaska State Constitution, though any such amendment must not amount to a repeal of the initiative. He suggested that the common understanding of "amend" is "to change" and is what was meant by the voters who ratified the Alaska State Constitution by a two to one vote, and opined that the minutes from the constitutional convention provide insight regarding how the framers viewed the power to amend.

MR. RUARO then offered some historical background on that constitutional provision, as well as on Alaska Supreme Court cases, Warren v. Thomas and Warren v. Boucher, both of which pertain to initiatives and the legislature's broad power to amend them or replace them. In conclusion, he opined that the legislature does have the authority to amend - via HB 164 - the recent ballot initiative regarding cruise ship taxation, regulation, and disclosure, and urged passage of the bill.

CHAIR RAMRAS spoke of other legislation proposing to amend a ballot initiative, of testimony provided by the Department of Environmental Conservation (DEC) regarding discharges from land-based facility, and of a ballot initiative that he sponsored. Remarking that many provisions of statute were changed by the recent ballot initiative regarding cruise ship taxation, regulation, and disclosure, he said he feels comfortable that the legislature does have the right to amend that initiative regardless of whether any such amendments coincide with the intent of the initiative's prime sponsors. He indicated that he doesn't want the cruise ship industry to have to comply with higher standards than those which land-based facilities must comply with.

CHAIR RAMRAS offered his understanding that the House Finance Committee will address how the \$4 per-passenger per-voyage fee [to fund the Ocean Ranger program] is to be handled. Pointing out that the State is attempting to reduce the number of its employees, he said he is a little offended by the proposal to hire 80 people to monitor the cruise ship industry, particularly given that the DEC has demonstrated, to the Environmental Protection Agency's (EPA's) satisfaction, that it is capable of managing all land-based facilities for less money and with fewer people.

[2:24:37 PM](#)

LYNN TOMICH KENT, Director, Division of Water, Department of Environmental Conservation (DEC), in response to a request for information, relayed that the department regulates a number of different types of industrial and municipal wastewater discharges, and this regulation is based on the same water quality standards as would be applied to the cruise ship program. The department also has an existing program that regulates discharges from cruise ships, and the recently approved ballot initiative will now require large vessels to have wastewater discharge permits much like those required of other industries regulated by the DEC.

MS. KENT, in response to questions, offered details regarding its monitoring of land-based facilities; said that absent the ballot initiative, the department would have continued to implement the existing cruise ship program, which has effluent limits as well as monitoring and reporting requirements; indicated that because she is only familiar with the department's oversight of other types of wastewater discharge permits, she is unable to comment on how aggressive the monitoring program as proposed by HB 164 as it is currently written would be compared to land-based facility monitoring; mentioned that both the ballot initiative and HB 164 require more than simply monitoring wastewater discharges; and offered her understanding that advanced wastewater system technology is very effective at treating the domestic wastewater discharges of those cruise ships that employ that technology.

2:30:19 PM

RUTH HAMILTON HESSE, Assistant Attorney General, Environmental Section, Civil Division (Juneau), Department of Law (DOL), in response to a question, confirmed that there already are criminal and civil liability statutes in place concerning the cruise ship program. For example, for civil liability, for penalties of not less than \$500 or more than \$100,000, there can be an assessment for those amounts for a violation of permit or regulation for commercial passenger vessels, and no more than \$10,000 for each day after that first day on which the violation first occurs. This provision would also cover violations including unauthorized wastewater discharges or failure to report as required by applicable regulation. Also, under AS 46.03.760(f), penalties for falsifying a registration or report are not less than \$5,000 nor more than \$100,000 in a civil action for the initial violation, nor more than \$10,000 for each day thereafter on which the same violation occurs.

MS. HAMILTON HESSE relayed that this would also include a failure to report as required by applicable regulation, permit, or by submittal of a false report. Criminal liability for cruise ships also applies. A person, including an organization, acting with criminal negligence may be found guilty of a class A misdemeanor. An individual so convicted can be subject to a fine not exceeding \$10,000 and/or sentenced to not more than a year in prison. An organization can also find itself convicted, and can be subject to a fine of no more than \$200,000 or an amount twice the pecuniary damage for a lost cause by the defendant to another or property of another. Also, a person can be held accountable, under the criminal statute, for a class C felony if the person, with criminal negligence, is found guilty of discharging 10,000 or more barrels of oil, which is a catastrophic release, and that applies to cruise ships as well.

MS. HAMILTON HESSE noted that there is also a standard used to determine whether someone has been criminally negligent pursuant to the criminal negligence statutes. That standard is, when a person acts with criminal negligence with respect to a result or to a circumstance described by a provision of law defining the offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists, the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situations. Furthermore, there are other statutes that could apply for holding somebody criminally or civilly liable. She offered to get that latter information to the committee.

REPRESENTATIVE GRUENBERG asked whether the DEC supports HB 164.

MS. HAMILTON HESSE offered her understanding that the DEC is doing its best to interpret the ballot initiative as written, and implement those laws on the book.

REPRESENTATIVE GRUENBERG referred to language on page 2, lines 2-8, and asked whether the first sentence in that proposed provision would allow a marine engineer to come on board while the vessel is at sea in Alaska waters.

MS. HAMILTON HESSE said yes.

REPRESENTATIVE GRUENBERG, noting that the second sentence of that proposed provision allows a marine engineer to board the vessel at times while the vessel is in port, asked whether it is

necessary to retain that second sentence or whether the ability to board a vessel while it is in port is implied within the first sentence.

MS. HAMILTON HESSE suggested that perhaps Mr. Ruaro could better respond to that question.

REPRESENTATIVE COGHILL pondered whether maritime law makes a distinction between being underway and being at port.

[2:37:49 PM](#)

REPRESENTATIVE GRUENBERG, referring to the language being deleted via Section 2 and Section 3, said those changes appear to be an attempt to delete the authority to ensure protection from improper sanitation, health, safety practices, and health-related operations. He asked what jurisdiction is being removed from the marine engineers referenced in those sections.

MS. HAMILTON HESSE acknowledged that there is some question, under current law, regarding who may have primacy over certain of the functions that are covered under Section 2. She said that the change proposed to AS 46.03.476(a)(2) appears to intend to allow the Ocean Ranger to confirm whether the vessel is complying with an approved U.S. Coast Guard security plan; so to some extent the duty that is being asked of the Ocean Ranger under this proposed change would perhaps limit the larger, somewhat unknown duties that might be imposed under current law.

REPRESENTATIVE GRUENBERG asked what is within the phrase, "improper sanitation, health, and safety practices" or within the phrase, "engineering, sanitation, and health related operations of the vessel" that is not included within the phrase, "approved United States Coast Guard security plan" or the phrase, "registration, reporting, record-keeping, and discharge functions required by state and federal law". What is being done via these proposed language changes? What abilities are the Ocean Rangers being divested of?

MS. HAMILTON HESSE surmised that those changes are an attempt at refining the kinds of the things that Ocean Rangers must be alert for.

MR. RUARO offered his understanding that the proposed deletions from current law will remove from the Ocean Rangers' scope of duties the ability to go on the bridge and interfere with the operation of the vessel or normal engineering operations. Also,

the "sanitation" and "health" language is being deleted because the vessels are already inspected by the Centers for Disease Control and Prevention (CDC) and federal public health inspectors, and records reflect that [the cruise ship industry] passed 398 out of the last 403 inspections, and so Ocean Rangers need not be saddled with that particular duty. In response to the question of whether the language on page 2, lines 5-8 - regarding boarding the vessel while it is in port - is really necessary, he said that it is his understanding that that language simply modifies the language directing owners and operators to allow a marine engineer on board; instead of reading it as either/or, it simply modifies when the Ocean Ranger must be allowed on board the vessel.

REPRESENTATIVE GRUENBERG surmised, then, that it just broadens the time and clarifies that a marine engineer may board a vessel either while it is in port or while it is at sea.

MR. RUARO disagreed and said the language is meant to stipulate that the marine engineer will be allowed onboard while the vessel is in port.

REPRESENTATIVE GRUENBERG questioned, then, why the first sentence is being changed to say "operating in the marine waters of the state". "You couldn't get to the port unless you were operating within the marine waters of the state; that's the only way you get to the port," he added.

MR. RUARO concurred, but argued that the point of these changes is to move away from having to put Ocean Rangers on board the vessel the moment it crosses the international boundary line and comes into Alaska waters.

[2:45:35 PM](#)

REPRESENTATIVE GRUENBERG said he doesn't have a problem with that concept, but said it seems to him that that language change would clearly allow boarding while the vessel is at sea within the territorial waters [of Alaska]. If the point is to prohibit that, then the first sentence should be deleted entirely, he surmised.

MR. RUARO clarified that the intent is to only allow marine engineers on board a vessel while it is in port in Alaskan waters.

REPRESENTATIVE GRUENBERG opined that that intent is not clear from the language.

REPRESENTATIVE LYNN asked Mr. Ruaro whether he meant to say that the goal of the changes proposed to subsection (a)(2) of Section 2 and to Section 3 is to prevent the Ocean Rangers from inspecting anything regardless of how, where, or when they got on board the vessel.

MR. RUARO said he'd not meant to say that. He offered that what he was trying to say was that an Ocean Ranger couldn't perform engineering, sanitation, and health-related operations on the vessel, but could continue to monitor registration, reporting, record-keeping, and pollution discharge functions required by state and federal law. These changes will narrow the scope of an Ocean Ranger's duties but won't eliminate them.

REPRESENTATIVE LYNN asked for further clarification regarding what Ocean Rangers will be prevented from doing.

MR. RUARO opined that Ocean Rangers won't be allowed to perform ordinary engineering functions, interfere with the Captain, or perform the health- and sanitation-related duties currently being performed by the U.S. Public Health Service. In response to another question, he reiterated that under the bill, Ocean Rangers will be permitted to monitor registration, reporting, record-keeping, and pollution discharge functions required by state and federal law - as outlined on page 2, line 20.

REPRESENTATIVE HOLMES offered her understanding that the ballot initiative's language said that a marine engineer must be on board the vessel at all times while it is in Alaskan waters, and that the bill's language is intended to stipulate that a marine engineer can be on board a vessel only while it is in port.

MR. RUARO concurred.

CHAIR RAMRAS said he'd not seen anything in the voter pamphlet indicating that the ballot initiative intended to exclude small cruise ships and ferries.

MR. RUARO indicated that he hadn't either. In response to a question, he opined that HB 164 honors the will of the voters that want better management and oversight of wastewater discharges from cruise ships.

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MS. KENT, in response to the question of whether the DEC supports HB 164, said that the DEC is working diligently to implement the changes brought about by the voters' approval of the ballot initiative as it was written, and is prepared to implement any further changes to the law via HB 164 or other legislation, but is not taking an active position on HB 164 either way.

REPRESENTATIVE GRUENBERG asked why the DEC is not supporting HB 164.

MS. KENT said it is because the DEC believes that any changes to existing law constitute a policy decision, which needs to be made by the legislature.

REPRESENTATIVE COGHILL concurred.

REPRESENTATIVE HOLMES asked how the DEC would interpret the language of proposed AS 46.03.476(a). Would that language only allow a marine engineer to come on board a vessel while it is in port? Or would a marine engineer be allowed to board a vessel while it was underway.

MS. KENT said that the DEC reads that language to mean that a marine engineer could get on board while the vessel is in port, but because the bill is silent with regard to when the marine engineer is supposed to disembark the vessel, the DEC asked the sponsor's staff who in turn indicated that it is the sponsor's intent that a marine engineer only be on board the vessel while it is in port. She relayed that the DEC's fiscal note makes that same assumption.

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REPRESENTATIVE COGHILL said he likes the concept of having Ocean Rangers on board vessels at least some of the time while they are underway, not just while they are in port, and would therefore like to see some changes along that line before the bill is heard on the House floor because it would come closer to the intent of the initiative.

REPRESENTATIVE HOLMES concurred. She said that when looking at a ballot initiative, she considers two questions: is it constitutional, and is it the right thing to do. She remarked: "I think it's too big a leap to go from a language that requires a marine engineer to be on board at all times while in Alaska

waters, to go to language that's intended to say they can never be on board unless they're in port, and for me that is too big a leap that I'm not willing to make."

REPRESENTATIVE LYNN pointed out that the discussion pertains to "Ocean Rangers," not "Port Rangers," and that amendments offered on the floor can be difficult to debate; therefore, he is not comfortable passing the bill out of committee as it is currently written.

REPRESENTATIVE GRUENBERG remarked:

I've expressed my concerns, here. First, it's very clear to me that the first sentence [of proposed AS 46.03.476(a)] clearly allows the person to board at sea. I think it's an unsupportable reading not to allow that to be done, and it's completely at odds with the second sentence. Secondly, what they've done here, in the bill, is significantly, as a policy matter, undercut the scope of the allowable function of the Ocean Rangers. And I would second what Representative Holmes has said: there's a considerable leap between what was in the initiative and the very great distance this particular measure goes.

We haven't had a very good discussion of what the term "engineering" means. I spent two years as a deck officer at sea. Engineering relates to the engineering system, the engineering department, the boilers, the evaporators, the generators, and the turbines down in the engineering spaces, but it doesn't normally relate to ... what goes on, on the bridge, and structural kinds of things as well. "Sanitation" is very broad, and "health" is extremely broad. I was under the impression that these Ocean Rangers were going to be properly trained to handle all of those functions, and we don't have testimony as to whether the fact that [cruise ships] ... passed inspections necessarily means that it is at the level the voters intended when they passed the initiative. So that part of this concerns me as well.

Of course there's a considerable difference between having a marine engineer on board and allowing them to be on board. The concept I've heard discussed, whether you have to have 24/7, because people only

work 8 hours a day under the labor laws, it doesn't require 24/7. It says, "have a marine engineer"; it doesn't say, "have 24/7 coverage". I wouldn't have read it as 24/7 coverage the way it was previously written. It's not the function of the [House Finance Committee to] rewrite legislation; they look at the finance aspects, we look at the legal aspects, here.

[3:00:14 PM](#)

VICE CHAIR DAHLSTROM said she's heard requests from members regarding a possible amendment that would address the concerns brought forth in committee. She offered her belief that it would be in the best interest of the sponsor to have that amendment prepared and brought back to this committee for review, thus allowing the House Finance Committee to just address the fiscal issues associated with the bill.

MR. RUARO agreed to try to have such an amendment prepared [soon].

VICE CHAIR DAHLSTROM expressed disfavor with the concept of simply assuming that the bill's problems will be fixed in the next committee.

REPRESENTATIVE GRUENBERG said he is satisfied with the constitutional issue and doesn't need to hear more testimony on that point.

The committee took a brief at-ease.

VICE CHAIR DAHLSTROM relayed that HB 164 would be set aside.

[Vice Chair Dahlstrom returned the gavel to Chair Ramras.]

HB 3 - REQUIREMENTS FOR DRIVER'S LICENSE/I.D.

[3:02:40 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 3, "An Act relating to issuance of identification cards and to issuance of driver's licenses; and providing for an effective date."

The committee took an at-ease from 3:04 p.m. to 3:11 p.m.

[3:11:36 PM](#)

REPRESENTATIVE LYNN, speaking as the sponsor, said that HB 3 requires persons to show documentary evidence that they have a "legal presence" in Alaska and that they are who they say they are. House Bill 3 also provides that a license expires when a person's legal presence in Alaska expires. He remarked, "I don't know why should someone have the privilege of driving a car down the street when they don't have a legal presence to walk down the same street." He pointed out that although HB 3 is not the federal REAL ID Act of 2005, it may bring Alaska into compliance with certain provisions of that federal Act; for example, allowing Alaskans to use their Alaska driver's license or identification (ID) card to enter federal buildings or board airplanes. After mentioning that there is pending legislation opposing the federal Act, he asked that HB 3 be judged on its own merits. In conclusion, he said that if members believe as he does that a "legal presence" in the state of Alaska should be required for the privilege of driving in Alaska, and that a driver's license and ID card should constitute proof that a person is who he/she says he/she is, then members should vote for HB 3.

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DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), relayed that HB 3 provides that only U.S. citizens and several other groups of people are eligible to obtain Alaska driver's licenses. Also, an international customer, such as a foreign exchange student, for example, can now, because of statutory requirements, obtain a driver's license or state ID card valid for a five-year period regardless of how long he/she may legally reside in the U.S., and so HB 3 provides that such a license or ID card shall expire on the date that the person's legal presence in Alaska expires. He then offered a specific example of an international customer who obtained an Alaska driver's license valid for five years even though that person's temporary visitor status was set to expire in just a few days.

MR. BANNOCK, in response to a question regarding that international customer, relayed that under current law, the Alaska DMV was not required to look at that person's visa and instead needed only to see that person's New York driver's license.

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BILL SCANNELL, The Identity Project (IDP), after relaying that he is an American by birth, an Alaskan by choice, and a U.S. Army veteran, said he opposes passage of HB 3. He then noted that the original sponsor statement said [original punctuation provided]:

On May 11, 2005 President Bush signed into law the Real ID Act. Provisions of this legislation improved security for driver' licenses and personal identification cards as well as set uniform standards for state driver's licenses and identification cards. HB 3 is designed to bring Alaska into compliance with the new federal Real ID Act.

CHAIR RAMRAS acknowledged that sponsor statements can be fallible and are subject to revision.

MR. SCANNELL, in response to a question, said he is opposed to both the federal REAL ID Act of 2005 and to HB 3. He remarked:

Mr. Chairman, if you allow HB 3 to pass out of your committee, you will have ... in fact voted for Alaskans to have a national ID card and to participate in that. You will have, in fact, granted Duane Bannock and the DMV, carte blanche, to set any ID standards that he wants, and he'll never have to come back to this committee or this legislative body ever, ever again. ... This whole business about this being about illegal immigrants, ... from my perspective, ... is a smokescreen because this bill only affects Alaskans - it does not affect foreign immigrants at all.

CHAIR RAMRAS suggested that Mr. Scannell is giving Mr. Bannock more authority than the legislature has granted him.

MR. SCANNELL referred to similar legislation from last year that would have granted the director of the DMV a number of rights to implement the REAL ID Act, and offered his understanding that HB 3 contains those same provisions even though [such rights] are currently the subject of litigation. He said he is hoping that the committee will realize its authority to set standards and not simply delegate that authority, forever, to the director of the DMV. The REAL ID Act of 2005 and HB 3, he opined, constitute a multi-billion dollar boondoggle.

REPRESENTATIVE LYNN, in response to a comment and a question, mentioned that he is actually in favor of the REAL ID Act of 2005.

MR. SCANNELL said that if it were up to him, he would name HB 3 the Alaskan REAL ID Enabling Act because that is exactly what it does - it enables the director of the DMV to set driver's license standards. This is going to cost the state a lot of money, he opined, and offered his belief that the director of the DMV has not yet provided that information.

CHAIR RAMRAS pointed out that the DMV's fiscal note for the bill estimates a cost of \$20,000.

MR. SCANNELL argued that according to the U.S. Department of Homeland Security, the cost to the states to implement the federal Act will be \$14.6 billion, and thus he finds it very difficult to believe that Alaska will be able to implement the HB 3 components of the REAL ID Act of 2005 for only \$20,000. He added:

This is going to also cost the tax payors of Alaska a lot of time - a waste of time - because we're all going to have to go back, whether we've had driver's licenses for 50 years or we're getting it for the first time, ... and provide the original documentation, whether it be our passport, birth certificates - all of these documents. If you don't have them, and you don't have the right seals on them, then ... [if you came from someplace else as did a lot of Alaskans] that costs money.

It's a backdoor gun registry because a lot of states that don't believe in the Second Amendment as much as we do ... tie their driver's licenses to their state gun registries, and it will create a de facto national gun registry that we currently would not be participating in, but all it would take is someone to scream about the children, and, yes, we would. It's also a threat to not only our identity, but a threat to our country because it will enable bad guys - criminals and terrorists - to be able to have easier access [to] all of these breeder documents and all of this.

MR. SCANNELL concluded:

And, overall, it's a threat to freedom. This military ribbon I wear on my lapel, sir, I earned as an intelligence officer in West Berlin - I worked as a reporter in eastern Europe throughout the '80s and '90s - and I do not like the whole "Papers, please" (indisc - foreign language) society. That's not America. And finally, ... as I believe HB 3 is in fact the "REAL ID enabling Act," I do not believe that there is any way that one can support HB 3, let it out of committee, and at the same time support the very well written [HJR 19] ... that opposes [the federal REAL ID Act of 2005]. ...

REPRESENTATIVE LYNN asked Mr. Scannell whether he believes that a person's license should expire when his/her legal presence expires.

MR. SCANNELL replied that the purpose of the DMV is to keep the roads safe and make sure people know how to drive cars - not play the role of homeland security, immigration officer, or border patrol.

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MATTHEW KERR, after relaying that he is an independent computer contractor with 13 years of professional database system design experience who last year worked on a state IT contract, said he opposes HB 3, which he characterized as part of Alaska's implementation of the federal REAL ID Act of 2005. Mr. Kerr offered his recollection that Mr. Bannock has testified for the last two years that the DMV will implement this bill by scanning and retaining electronic copies of the personal identity documents of everyone in the state who applies for a driver's license or ID card; this would result in the DMV having more documentation about each person than the U.S. passport office currently retains. As a database programmer and as an Alaskan, he remarked, he believes [such a practice will be] invasive, a grave security risk, and result in a loss of privacy and in an increase in the size of government without any corresponding benefit.

MR. KERR opined that HB 3 does nothing to prevent illegal immigration and is instead more likely to promote it; [HB 3] is a bad idea. He added:

My security concerns are well-founded. In 2005 alone, ... three states reported successful data thefts of

personal information from their DMVs. One laptop found by police in an Oregon methamphetamine house contained DMV records on a half million people. If this trend continues, there's a 60 percent chance that our state would be compromised sometime in the next 10 years. I have worked on IT contracts for the State of Alaska - if I was a dishonest person, I could have walked out of the department I worked in with sensitive information on thousands of Alaskans. There are many people in positions like mine. A DVD filled with authentic images of our birth certificates, passports, and social security cards would sell for a pretty good sum in Tijuana, and all it would take is a single employee with a chip on his or her shoulder.

There's nothing that makes Alaska somehow more immune to this than Oregon, Georgia, Nevada, or North Carolina. The supporters of this bill claim that it is only about illegal immigrants. I also oppose illegal immigration, but this bill does nothing against it - foreign licenses are valid in Alaska regardless of the holder's legal presence. This bill doesn't remove any privileges or benefits from illegal aliens except perhaps the ability to obtain reasonably-priced car insurance. It's also redundant; we already don't give license to illegal aliens. On the other hand, House Bill 3 adds significant security risk, privacy loss, red tape, and bureaucracy to our state government. The DMV doesn't need special legislation and a new document tracking system [in order] to make a phone call about a suspected illegal immigrant applying for a license.

MR. KERR, noting that the sponsor has said he values [personal] privacy, offered his hope that Representative Lynn would therefore support amendments to restrict the DMV's identity document collection to only non U.S. citizens and residents. If HB 3 is only intended to address length of legal presence, then why does the DMV need to keep copies of U.S. citizens' papers, particularly given that citizenship doesn't expire.

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ANASTASIA MIRONOVA relayed that she is a foreign student from Russia, is currently in Salt Lake City obtaining a Ph.D. in scientific computing and a master's degree in geophysics, has graduated from the University of Alaska Anchorage with two

degrees - one in mathematics and one in computer science - and is working for "a large oil company with significant activity [on] the North Slope." She went on to say:

My presence in the United States is legal. However, I only have an expired visa and an expired passport because the United States does not issue visas domestically. Under the proposed [legislation], I would not be able to convince a DMV agent of my eligibility for [an] Alaska driver's license. I am permitted to travel internationally within North America and legally return to the United States with my expired visa and my passport. I once had an extensive debate about this with an airline agent who nearly refused to allow me on board even though I had copies of the immigration rules and the federal regulations themselves.

This experience was very unpleasant, bureaucratic, time consuming, and most extremely frightening. I honestly cried most of the flight back to the United States. The airline agent verifies ... travel documents every day as part of her job, yet even she was clueless about the rules of my legal presence. This situation would be at least as difficult for me as (indisc.). My Russian driver's license is still valid. I applied for an Alaskan license for only two reasons. The first one was to obtain cheaper car insurance rates, and the second was because my Alaskan driver's license was smaller and easier to carry around.

If I had experienced the same kind of hassle as I did with the airlines at [the] Alaska DMV, I would have never taken [an] Alaska driver's license driving test ... and I would be still using my Russian driver's license despite the higher insurance rates. I assure that there already exists an enormous amount of paperwork and hassle in being a foreign student in this country. Thank you for listening to my testimony.

CHAIR RAMRAS asked Ms. Mironova whether she has plans to pursue U.S. citizenship.

MS. MIRONOVA said she is not permitted to officially answer such a question in public.

CHAIR RAMRAS asked Ms. Mironova whether she thinks that another person in similar circumstances would be interested in performing terrorist activities.

MS. MIRONOVA said she doesn't believe so, and surmised that people who come to the United States to study are only interested in studying, getting their degree, and then moving on with their careers. When a person is issued an American visa, she relayed, there is now a process in place that provides for background checks and other security checks to ensure that the person is not coming to the country to commit terrorist activities, and visa applications specifically ask a lot of questions in that regard.

CHAIR RAMRAS said he is inclined to vote "yes" on HB 3 because Ms. Mironova's testimony illustrates to him that currently people with bad intentions would have too easy a time moving around the country with only an Alaska driver's license.

MS. MIRONOVA concluded by saying that if the procedures provided for in HB 3 were in place, she would simply rely on her Russian driver's license, obtain insurance, and be perfectly legal - there would be no point in obtaining an Alaska driver's license.

CHAIR RAMRAS expressed favor with that concept.

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MICHAEL "WES" MACLEOD-BALL, Executive Director, Alaska Civil Liberties Union (AkCLU), noted that some of the documents provided in members' packets acknowledge that HB 3 does, in fact, bring Alaska closer to compliance with the REAL ID Act.

CHAIR RAMRAS concurred that the fiscal note provided by the DMV does indicate that, as well as that the funds outlined in the fiscal note would only be used to update the DMV's database and that additional funds might be needed for full compliance with the federal Act.

MR. MACLEOD-BALL explained that for those opposed to the REAL ID Act, the strategy, nationally, is to try to garner support in all of the states affected by the Act and express opposition to it through any means possible, for example, via resolutions such as Alaska's HJR 19. But, to the extent that any state takes steps that tend to implement the federal Act, those steps could be viewed as an expression of support for the Act. So if states

choose not to implement pieces of the REAL ID Act - and HB 3 will comply with it in part - or delays doing so or expresses disapproval of it, that can be viewed as further opposition to the Act which may help efforts in Washington, D.C., to repeal or significantly modify it. He mentioned that there are bipartisan measures before both houses of Congress to do just that.

MR. MACLEOD-BALL offered, though, that there are other reasons to oppose HB 3, as prior testimony has indicated. He asked the committee to consider what the DMV's mission is and whether it should become the enforcement arm of the federal immigration process. If the committee thinks that the DMV should be checking immigration status as part of its licensing process, then why not also grant the DMV the authority to check on someone's legal tax status or on whether someone's committing welfare fraud, or on any number of other things relating to somebody's legal activities before issuing a license? In other words, why should the DMV only be given the authority to check on somebody's immigration status? He offered his belief that the DMV's mission is that of making sure that drivers know the rules of the road, that drivers are legally licensed and are eligible for insurance, and that the roads of Alaska are filled with drivers who know how to drive.

MR. MACLEOD-BALL offered that the one thing that is known about those that would be excluded from the licensing process by HB 3 is that they will drive anyway - "you have to drive in this day and age in order to do what you're going to do." Isn't it better for everyone to have drivers on the road who are licensed and insured? In response to a question regarding "serial drunk drivers," he said that if there is a legitimate class of people that ought to be prevented from getting licenses, it would be those who have demonstrated their inability to drive safely, and that is what the DMV is supposed to do. There is a qualitative difference between serial drunk drivers and people who merely have a limited time to be in the country legally.

MR. MACLEOD-BALL said that via HB 3, the Division of Motor Vehicles - which is supposed to determine a person's qualifications to conduct himself/herself safely on the roads of Alaska - is instead being asked to make a determination regarding a person's immigration status. And while it is possible to establish a connection between the DMV's current duties and precluding a serial drunk driver from obtaining a license, there is not the same logical leap regarding the DMV's current duties and precluding someone from obtaining a license simply based on his/her immigration status. "So that, I think,

is one of the real key distinctions, here, about why we should not be assigning this role to the [Division of Motor Vehicles], he added.

CHAIR RAMRAS countered that as an alcoholic beverage licensee, he could view the dominate purpose of a driver's license to be that of indicating whether someone is old enough to consume alcoholic beverages, and thus once a person's age is established, a license need never expire.

MR. MACLEOD-BALL pointed out, though, that there has been a policy determination that one is eligible to drive at a particular age and presumably that policy decision is wrapped up in determinations of when is somebody able to safely operate a motor vehicle, thereby establishing an age criteria and requiring the DMV to verify that age as part of the licensing process - again, there is a rational connection in this case.

CHAIR RAMRAS argued that even serial drunk drivers are probably safe drivers when they are sober.

MR. MACLEOD-BALL concurred, and offered his understanding that there have been number of efforts to try to figure out ways to limit the operability of motor vehicles by somebody who's unable to pass a breathalyzer test. However, he opined, it is not possible to state that there is any direct connection between somebody's legal presence in the country and his/her ability to drive a car safely. Again, he remarked, to him it seems that one of the key functions of the DMV is to make sure that those who are driving on Alaska's roads are qualified to drive, rather than that they are qualified to be in the country; if the DMV is tasked with ensuring the latter, that would significantly expand the scope of the DMV's mission. And if that is the will of the legislature, so be it, but it constitutes a very big jump in the DMV's mission, he added.

REPRESENTATIVE LYNN acknowledged that having a driver's license bears no relationship with how safe a driver one might be.

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REPRESENTATIVE COGHILL - noting that under HB 3, the DMV is authorized to promulgate regulations outlining what constitutes valid documentation - asked what type of documentation would be considered sufficient for obtaining a license and what would be done with those documents.

MR. BANNOCK said the main documents the DMV sees on a regular basis are original birth certificates and social security cards, adding that the DMV is statutorily charged with verifying a person's identity, and pointing out that ID cards, which the DMV is responsible for issuing, have nothing to do with driving. Repealing all [non-driving related] statutory provisions would enable to the DMV to focus simply on ensuring driver competence. Other documentation that is currently acceptable, he continued, are court records and passports. He offered his understanding that under a specific provision of HB 3, the DMV will be able to accept a person's current valid driver's license as sufficient documentation; thus, as long as a person's driver's license is not expired, canceled, revoked, or suspended, he/she won't have to [provide any other form of documentation]. He also relayed that the DMV does have a plan for eventually retaining electronic copies of the aforementioned documents, but that plan has not yet been implemented.

REPRESENTATIVE SAMUELS asked what documentation is required of a person now if his/her license expires, and what documentation will be required under HB 3 if a person's license expires.

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MR. BANNOCK said that under HB 3, the person will have to reestablish who he/she is [via additional documentation] because the DMV will not accept an expired, canceled, revoked, or suspended license as sufficient documentation. Under current law, a person coming in with an expired license needn't provide any additional identifying documentation. He mentioned that statutorily, a person may renew his/her driver's license up to 12 months in advance.

CHAIR RAMRAS closed public testimony on HB 3.

REPRESENTATIVE HOLMES questioned whether passage of HB 3 would enable [the DMV] to later implement the federal REAL ID Act without requesting further statutory changes.

MR. BANNOCK indicated that no further statutory changes would be necessary.

REPRESENTATIVE COGHILL offered his understanding, however, that certain appropriations might be required.

MR. BANNOCK concurred.

CHAIR RAMRAS offered his understanding that state compliance with the REAL ID Act would come at considerable expense.

MR. BANNOCK concurred, and, in response to a question, relayed that he doesn't yet know what it would cost the state to become completely compliant with the REAL ID Act.

[HB 3 was held over.]

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 4:03 p.m.