

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

May 4, 2007

1:13 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative John Coghill

**COMMITTEE CALENDAR**

HOUSE BILL NO. 200

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

- MOVED CSHB 200(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 227

"An Act relating to the Uniform Money Services Act, to money transmission services, and to currency exchange services; and providing for an effective date."

- MOVED CSHB 227(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 232

"An Act relating to the sale, distribution, and purchase of alcoholic beverages; relating to a state database for records of certain purchases of alcoholic beverages; relating to the relocation of a license to sell alcoholic beverages; relating to procedures for local option elections for control of alcoholic beverages; and providing for an effective date."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: HB 200

SHORT TITLE: WORKERS' COMP: DISEASE PRESUMPTION  
SPONSOR(s): REPRESENTATIVE(s) DAHLSTROM

03/14/07 (H) READ THE FIRST TIME - REFERRALS  
03/14/07 (H) L&C, JUD  
04/27/07 (H) L&C AT 3:00 PM CAPITOL 17  
04/27/07 (H) Heard & Held  
04/27/07 (H) MINUTE(L&C)  
04/30/07 (H) L&C AT 3:00 PM CAPITOL 17  
04/30/07 (H) Moved Out of Committee  
04/30/07 (H) MINUTE(L&C)  
05/02/07 (H) L&C RPT 1DP 1NR 4AM  
05/02/07 (H) DP: GATTO  
05/02/07 (H) NR: NEUMAN  
05/02/07 (H) AM: LEDOUX, GARDNER, RAMRAS, OLSON  
05/02/07 (H) FIN REFERRAL ADDED AFTER JUD  
05/04/07 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 227

SHORT TITLE: UNIFORM MONEY SERVICES ACT  
SPONSOR(s): REPRESENTATIVE(s) KERTTULA

03/28/07 (H) READ THE FIRST TIME - REFERRALS  
03/28/07 (H) L&C, FIN  
04/25/07 (H) L&C AT 3:00 PM CAPITOL 17  
04/25/07 (H) Moved CSHB 227(L&C) Out of Committee  
04/25/07 (H) MINUTE(L&C)  
04/26/07 (H) L&C RPT CS(L&C) 3DP 3NR  
04/26/07 (H) DP: GARDNER, BUCH, OLSON  
04/26/07 (H) NR: LEDOUX, NEUMAN, GATTO  
04/26/07 (H) JUD REFERRAL ADDED AFTER L&C  
05/04/07 (H) JUD AT 1:00 PM CAPITOL 120

#### **WITNESS REGISTER**

KELLY HUBER, Staff  
to Representative Nancy Dahlstrom  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 200 on behalf of the sponsor,  
Representative Dahlstrom.

MARK JONES  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 200.

ROD HARRIS

Alaska Professional Fire Fighters Association (AKPFFA)  
Eagle River, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 200.

MIKE DAVIDSON

Alaska Professional Fire Fighters Association (AKPFFA)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 200.

LISA WEISSLER, Staff  
to Representative Beth Kerttula  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided a comment during discussion of HB 227 on behalf of the sponsor, Representative Kerttula.

JESSE KIEHL, Staff  
to Senator Kim Elton  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 227 on behalf of Representative Kerttula, sponsor.

MARK DAVIS, Director  
Juneau office  
Division of Banking & Securities  
Department of Commerce, Community, & Economic Development  
(DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 227.

W. GRANT CALLOW, Commissioner  
National Conference of Commissioners on Uniform State Laws  
(NCCUSL)  
Anchorage, Alaska

**POSITION STATEMENT:** Provided comments during discussion of HB 227.

#### **ACTION NARRATIVE**

**CHAIR JAY RAMRAS** called the House Judiciary Standing Committee meeting to order at [1:13:18 PM](#). Representatives Lynn, Holmes, Gruenberg, Dahlstrom, Coghill, and Ramras were present at the

call to order. Representative Samuels arrived as the meeting was in progress.

HB 200-WORKERS' COMP: DISEASE PRESUMPTION

1:13:46 PM

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 200, "An Act relating to the presumption of coverage for a workers' compensation claim for disability as a result of certain diseases for certain occupations." [Included in members packets was the proposed committee substitute (CS) for HB 200, Version 25-LS0748\E, Bailey, 5/4/07.]

1:14:44 PM

KELLY HUBER, Staff to Representative Nancy Dahlstrom, Alaska State Legislature, relayed on behalf of Representative Dahlstrom, sponsor, that the proposed committee substitute (CS) for HB 200, Version 25-LS0748\E, Bailey, 5/4/07, allows a presumption for certain diseases and illnesses for firefighters and first responders. She offered her understanding that the program is not mandatory and provides that for eligibility, the firefighter or first responder must have at least seven years of service and possess a minimum of Firefighter 1 certification. The diseases listed in the bill are linked to these occupations, which have an inherent risk. Under the presumption, those who work in these occupations could pursue workmen's compensation should they contract any of the listed illnesses.

1:17:14 PM

MARK JONES, after relaying he has 32 years' experience as a fire fighter, said physical fitness is a necessity in the firefighting industry. Many fire departments around Alaska, and the United States, have implemented aggressive physical fitness programs to ensure employees are in the best physical condition possible. Improvements in protection, including equipment, engineering, and barriers, have all provided a tremendous reduction in exposure to diseases. These prevention programs are working. However, there are still instances where workers are exposed. The physical demands, coupled with long term exposure to carbon monoxide, all lead to continued high levels of heart and lung disease. Skin contact with smoke carrying carcinogens is still a major problem, often leading to cancer, but fully protective equipment and clothing to protect one from this contact has not yet been developed. One of the goals of

everyone in fire and emergency services is to reduce the occurrence of these occupational illnesses to zero. Until this can be achieved, the industry needs the protections of HB 200.

[1:21:19 PM](#)

ROD HARRIS, Alaska Professional Fire Fighters Association (AKPFFA), said that in spite of improvements to the safety gear and training, firefighters are still regularly exposed to toxic environments. The nature of their work calls for firefighters to mitigate emergencies in extreme conditions. As of this year, 41 states have enacted presumptive legislation to protect their emergency responders. Alaska's emergency responders need this same protection as their peers in other states.

[1:22:32 PM](#)

MIKE DAVIDSON, Alaska Professional Fire Fighters Association (AKPFFA), said that HB 200 represents an important fix to a hole in the safety net that currently exists in Alaska. Currently, AKPFFA members are frequently exposed to known carcinogens, contagious diseases, and other hazards as part of their occupation. These hazards are routine, unpredictable, and occur on a regular basis. Unlike other healthcare and emergency occupations, there is no opportunity to pre-assess the scene for potentially hazardous exposures. The AKPFFA has taken every engineering step possible to prevent these exposures. It is the goal of everyone in fire service to eradicate these diseases among their employees. It is difficult to trace these exposures back to a single event, but rather, it is chronic exposure to various known carcinogens and diseases. The AKPFFA needs the protections contained within HB 200 as these diseases can be terminal, and are not covered by private health insurance. Mr. Davidson commented that private health insurance is a good safety net, but it does not provide living expenses for a family while the firefighter is unable to work. "I am certainly supportive of HB 200," he concluded.

CHAIR RAMRAS asked if there were any more questions or whether anyone else wished to speak before he closed public testimony on HB 200.

[1:28:06 PM](#)

REPRESENTATIVE DAHLSTROM moved to adopt the proposed CS for HB 200, Version 25-LS0748\E, Bailey, 5/4/07, as the work draft.

REPRESENTATIVE GRUENBERG objected for the purpose of discussion.

MS. HUBER, in response to a question, explained that the changes she'd described earlier applied to Version E.

REPRESENTATIVE GRUENBERG removed his objection.

[Although nothing further was stated, Version E was treated as being before the committee.]

[1:28:45 PM](#)

REPRESENTATIVE DAHLSTROM moved to report the proposed CS for HB 200, Version 25-LS0748\E, Bailey, 5/4/07, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE GRUENBERG asked whether, if the exposure occurred before the effective date of the act, would a court or a carrier require that "any or all" of the exposure occur before the effective date. He said he wanted to be sure there was as broad a coverage as possible.

MS. HUBER responded that claims must be from the effective date forward, but the prior exposure is included, if claimants meet the presumption of seven years service and Firefighter 1 certification. Then, the exposure from the claimants work is included. No claims from the past can be brought up in the future.

[1:30:51 PM](#)

REPRESENTATIVE GRUENBERG removed his objection.

CHAIR RAMRAS announced that CSHB 200(JUD) was reported from the House Judiciary Standing Committee.

HB 227-UNIFORM MONEY SERVICES ACT

[1:31:32 PM](#)

CHAIR RAMRAS announced that the last order of business would be HOUSE BILL NO. 227, "An Act relating to the Uniform Money Services Act, to money transmission services, and to currency exchange services; and providing for an effective date." [Before the committee was CSHB 227(L&C).]

[1:32:19 PM](#)

LISA WEISSLER, Staff to Representative Beth Kerttula, Alaska State Legislature, said on behalf of Representative Kerttula, sponsor, that a representative from Senator Elton's office would be presenting HB 227.

[1:32:36 PM](#)

JESSE KIEHL, Staff to Senator Kim Elton, Alaska State Legislature, on behalf of the sponsor, Representative Kerttula, explained that HB 227 would enact the Uniform Money Services Act here in Alaska. The bill would ensure safety and soundness in certain financial institutions for those who don't use banks. This bill doesn't pertain to banks. The bill regulates money transmitters, both large (Western Union, Money Gram) and small. He clarified that the small money transmitters found in Alaska serve people from both cruise ships, and fishing businesses, neither of which open Alaska bank accounts, but need to wire money or write checks.

MR. KIEHL noted that Alaskans and visitors have been victimized by phony money transmitters. This bill would place a prior restraint on those transmitters by requiring licensure in advance. The bill addresses two industries, both of which are of some concern to the federal government because of the risk posed for money laundering and terrorists financing. The bill ensures law enforcement coordination between state and federal governments. The bill is revenue neutral and will be regulated by the Division of Banking & Securities. The bill is supported by a consortium of large money transmitting companies, an association of small money transmitters, the Department of Commerce, Community and Economic Development (DCCED), a consumer advocacy group, the bankers association [Alaska Bankers Association (ABA)], and one of the major cruise lines.

MR. KIEHL referred to [what would later become Amendment 1] and said it would bring the bill more closely in conformance with the uniform act, in response to a recent U. S. Supreme Court decision, [Watters v. Watters, 550 U.S. (2007)]; Amendment 1, labeled 25-LS0814\E.1, Bannister, 4/27/07, read:

Page 28, line 14, following the first occurrence of "that":

Insert "(A)"

Page 28, line 15, following "loans;":

Insert "or

(B) engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than \$100,000, and does not engage in the business of making commercial loans;"

REPRESENTATIVE GRUENBERG asked for clarity on the statement regarding conformity with the uniform act; specifically, is it out of conformity, and was there any danger it would not be interpreted uniformly.

MR. KIEHL responded that there are small differences between the bill and the uniform act as originally drafted. There is a category of bank subsidiaries referred to as "rent-a-banks" and these are not currently doing money transmission in Alaska. This very narrow category was carved out of the definition of bank. Banks are exempt, so this would have regulated the aforementioned subsidiaries should they have started transmitting money in Alaska. The U.S. Supreme Court's decision in Watters strictly limited the ability of states to regulate bank securities. The sponsors thought it best to put back the original definition as written by the uniform law commissioners, and that is what Amendment 1 would do. The other significant difference was that the uniform act had three entities: money transmitters, check cashers, and currency exchangers. The bill does not regulate check cashers, because you can't launder money or finance terrorists by cashing a check, and there is no safety or soundness risk.

MR. KIEHL concluded by stating that the uniform act was designed to be modular; the state could adopt any one or all three of the pieces.

[1:39:38 PM](#)

MARK DAVIS, Director, Juneau office, Division of Banking & Securities, Department of Commerce, Community, & Economic Development (DCCED), referring to Watters, stated that the issue was whether a state could regulate a mortgage company that was an operating subsidiary of a national bank. Operating subsidiaries are not subject to supervision by states under the U.S. Office of the Comptroller of the Currency (OCC). The U.S. Supreme Court agreed, but explicitly noted that affiliates of a national bank can be subject to state regulation. This bill is

reworded so that it would not cover a bank or an operating subsidiary of a bank.

REPRESENTATIVE GRUENBERG asked if Alaska will need to change any of its banking laws to conform to Watters.

MR. DAVIS responded that Alaska would not need to at the present time because it has not exercised any supervision over any subsidiaries of national banks. The few national banks that operate in Alaska have decided to operate through affiliates, which do fall under the scrutiny of the state.

REPRESENTATIVE GRUENBERG asked whether Mr. Davis was preparing any legislation to extend state jurisdiction to the limits of the Watters case.

MR. DAVIS indicated that he was, adding he did not think there would be state supervision of subsidiaries in the near future.

REPRESENTATIVE GRUENBERG commented that he generally likes to see Alaska regulate to the extent permitted by the [U.S.] Constitution, to ensure that businesses and customers are protected. He asked Mr. Davis where there may be areas in which Alaska's banking jurisdiction could be extended, as permitted by Watters.

[1:43:27 PM](#)

MR. DAVIS responded that he did not think so. He agreed that the deferred deposit act covers Internet operations. Alaska has been successful in enforcing this act against companies only operating via the Internet in Alaska, which is asserting its jurisdiction on behalf of consumers in every bill it reviews.

CHAIR RAMRAS expressed concern for the financial security of crew and passengers of cruise ships, when they are sending money by wire. He asked for clarity on the security and surety bond required by the money transmitters.

MR. KIEHL responded that the security requirement in proposed AS 06.55.104 speaks primarily to losses by the consumer should a money transmitter go out of business. The bill is written with some flexibility, on the advice of the regulator, with a lower security requirement than the model Act initially suggested. A money transmitter can post a bond, a certificate of deposit, or an acceptable tangible asset which would be for the benefit of consumers should the transmitter close up shop with outstanding

obligations. The security requirement under this bill is an acceptable security (including a surety bond or letter of credit) of \$25,000 with an additional \$5,000 acceptable security required for each location. This would apply, primarily, to the larger money transmitters that have a number of authorized delegates. This security requirement was written to the lowest level that the regulator thought would protect consumers, and yet not affect the competitive environment in Alaska.

REPRESENTATIVE GRUENBERG commented that the security requirement amount seems very low, as one default on a transaction could wipe this amount out.

MR. KIEHL replied that proposed AS 06.55.104 operates together with proposed AS 06.55.107 which is a net worth requirement. The money transmitters are required to maintain a positive net worth, which is reported in their regular reports to the regulator. There are receivership provisions in the bill to ensure that a money transmitter getting into trouble isn't going to leave its Alaskan customers in the lurch.

REPRESENTATIVE GRUENBERG asked Mr. Davis and Mr. Callow about the figures in the uniform Act and what the division and the NCCUSL commissioners feel about the financial security amounts in AS 06.55.104(a).

MR. DAVIS said DCCED supports the \$25,000 amount because it is difficult to obtain a larger bond. The sponsors were sensitive to the issue of not wanting to put small money transmitters out of business. DCCED does support the maximum of \$5,000. There are the very large companies, including Money Gram and Western Union, who have more than enough resources to pay back the consumer; and there are the small companies which can offer no financial protection to the consumer. This bill is a compromise based on DCCED experience with the other Act.

[1:49:54 PM](#)

W. GRANT CALLOW, Commissioner, National Conference of Commissioners on Uniform State Laws (NCCUSL), offered that the Chicago office of the NCCUSL looked at the [Uniform Money Services Act] with the changes, prior to the Watters decision, and approved all the changes that were made. It was drafted as a uniform Act, with the understanding that each state could adjust the [financial] levels. Unless there have been changes to the numbers since HB 227 was drafted, the Chicago office is comfortable with the numbers, he said.

MR. KIEHL in response to a question relayed that the numbers in the bill have not been changed since the Chicago office reviewed them. The security requirements (surety bond or letter of credit) in the model Act were twice the amount required in the bill. The \$25,000 net worth requirement in the model Act reads the same as in the bill.

CHAIR RAMRAS expressed support for the bill, but wanted to ensure that those customers who don't speak English as a first language are not preyed upon. He asked how the fees are regulated, particularly for those who don't speak English as a first language. He asked the rights of those who don't speak English; what the commissions are; how many of these businesses are there be in Juneau; and how many of these businesses would be nationally recognized versus only locally recognized.

MR. KIEHL responded that HB 227 won't regulate fees, as it pertains to a competitive industry, and the competitive environment is helping to keep fees low. There are consumer protections in the bill that have been reviewed by both large and small money transmitter associations, and they refer to posting, receipts, timely-transmission minimum requirements, and refund ability requirements. The bill requires businesses to post a sign detailing where and how to make complaints, and every money transmission must come with a receipt that clearly states the fees that were charged, and the exchange rate or the floating exchange rate for exchanging foreign currencies. For foreign currency exchange with a floating exchange rate, there needs to also be an explanation of how this floating exchange works.

MR. KIEHL further stated that many of the people who use this service become quite savvy and know how exchange rates operate. They pick the businesses that serve them best. The timely transmission requirements set a bare minimum. The competitive environment allows one minute money transfers, whereby money goes directly into someone's bank account. There are an array and variety of services available. The bill does not interfere with the competitive environment, but ensures the consumer has the information needed to make a smart choice.

[1:57:02 PM](#)

CHAIR RAMRAS made a motion to adopt Amendment 1 [text provided previously].

REPRESENTATIVE DAHLSTROM objected for the purpose of discussion.

MR. KIEHL stated that Amendment 1 adds to the definition of a bank. It adds "rent a banks" or "credit card banks", both of which are federally recognized banking institutions that do not have "bank locations" and just offer credit cards. This language is in the uniform Act. It was originally taken out of the bill, but, after the Watters ruling, it needs to be returned.

REPRESENTATIVE DAHLSTROM removed her objection.

CHAIR RAMRAS stated that Amendment 1 was adopted.

REPRESENTATIVE GRUENBERG commented that this is a "trust me" bill. He asked whether there is any other provision in the bill about which the committee should be informed.

[2:00:24 PM](#)

CHAIR RAMRAS asked whether both the transmission time limit of 10 days and the requirements regarding posting the complaint notice would be established through regulation, or are already in the bill.

MR. DAVIS responded that the Division of Banking & Securities will have regulatory power to set the signage requirement and has been doing that with regard to the deferred deposit. In response to Representative Gruenberg, Mr. Davis said that currently, the division is required to keep the money transmitter information confidential, and so he would like to have a provision added that would require money service companies to ensure that customer information is kept confidential.

CHAIR RAMRAS asked about the 10-day transmission time limit.

MR. DAVIS offered his understanding that this time limit is in the bill and although 10 days is a long period of time, it is part of the uniform Act. He recommended retaining that time limit for now, as there may be problems with foreign banks. This service, referred to above, is primarily for persons who don't have a bank account where they are currently.

MR. KIEHL clarified that the 10-day time limitation is not in the uniform Act, and that it is designed to work with existing consumer protections that individual states have in effect. The

"timely transmission" language came at the suggestion of the industry, and it matches the form and content of the language adopted by both Hawaii and Washington. Almost none of the transmissions take 10 days, as the competitive environment has promoted having transmissions happen quickly.

MR. DAVIS concurred.

REPRESENTATIVE GRUENBERG asked why a provision regarding reciprocal confidentiality was not in the bill.

MR. DAVIS replied that the uniform Act did not address this issue, and the sponsor decided not to modify the bill in that regard. In response to Representative Gruenberg, he clarified that he would like to see customer confidentiality maintained with money transmitters, as customer information can sometimes include bank routing numbers.

REPRESENTATIVE GRUENBERG asked whether members understood that Mr. Davis wants to make the customer information confidential, as that information may contain bank routing and bank account numbers.

[2:06:01 PM](#)

MR. KIEHL reiterated that it was a change the sponsors elected not to make. Bank routing numbers are not transmitted by money transmitters; but, should a person choose to transfer directly to a bank account, then a bank routing number would be collected. The sponsor elected not to impose a higher standard than the uniform Act imposed.

MR. DAVIS responded that for some special transfers, one may provide a bank number to the transmitter. The transmitter would then be in possession of bank account records, which he thinks should be kept confidential. The drafters of the uniform Act probably did not anticipate the use of such transfers, he surmised.

REPRESENTATIVE GRUENBERG expressed concern with the lack of confidentiality for such transfers.

MR. DAVIS said he did not think this was a major flaw in the bill, but suggested that proposed AS 06.55.407(1) should probably say "all information collected from a client or contained in examination is confidential."

REPRESENTATIVE GRUENBERG stated that he would not want his bank information released to the public. He asked Mr. Kiehl if the sponsor would reconsider that point.

MR. CALLOW stated his personal opinion that Mr. Davis' suggestion to protect customer confidentiality seems like a good idea. He said that [customer confidentiality] does raise some liability issues with the consequences of revealing that information. He said he agrees that confidentiality is important. He said he did not know whether that issue was addressed during the drafting of the uniform Act, so he could not say whether it was purposefully left out.

REPRESENTATIVE GRUENBERG suggested that the sponsor work with Mr. Davis to address his concern in the House Finance Committee. He said he wants to see Alaskans protected in this regard.

MR. KIEHL responded that he and the sponsors will work with both the Division of Banking & Securities and the industry to protect the security of personal financial records, in order to prevent identity theft.

REPRESENTATIVE GRUENBERG asked whether there is any provision in the Act whereby other states are immediately informed should a company be found to be fraudulent.

MR. DAVIS said that once the state passes this legislation, Alaska can ask the U.S. Department of Treasury, Financial Crimes Enforcement Network to confirm which companies are registered. That federal tracking system protects honest companies.

[2:13:08 PM](#)

REPRESENTATIVE DAHLSTROM moved to report CSHB 227(L&C), as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 227(JUD) was reported from the House Judiciary Standing Committee.

[Members spoke briefly on a couple of topics addressed during prior meetings.]

#### **ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:15 p.m.