

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 3, 2008

8:08 a.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Lesil McGuire  
Senator Bill Wielechowski  
Senator Gene Therriault

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 65(FIN)

"An Act relating to breaches of security involving personal information, credit report and credit score security freezes, protection of social security numbers, care of records, disposal of records, identity theft, credit cards, and debit cards, and to the jurisdiction of the office of administrative hearings; amending Rules 60 and 82, Alaska Rules of Civil Procedure; and providing for an effective date."

MOVED SCS CSHB 65(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 307(FIN)

"An Act relating to penalizing certain misdemeanor domestic violence assaults as felonies."

MOVED SCS CSHB 307(JUD)

CS FOR HOUSE BILL NO. 88(FIN)

"An Act relating to televisions, monitors, portable computers, and similar devices in motor vehicles; relating to the definition of physical injury for the Alaska Uniform Vehicle Code; and providing for an effective date."

MOVED SCS CSHB 88(JUD) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 359(FIN)

"An Act relating to the term of probation for persons convicted of minor consuming or in possession or control of alcohol or repeat minor consuming or in possession or control of alcohol; and relating to termination of probation for certain persons convicted of minor consuming or in possession or control of

alcohol or repeat minor consuming or in possession or control of alcohol."

HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 65

SHORT TITLE: PERSONAL INFORMATION & CONSUMER CREDIT

SPONSOR(S): REPRESENTATIVE(S) COGHILL, GARA

01/16/07	(H)	PREFILE RELEASED 1/5/07
01/16/07	(H)	READ THE FIRST TIME - REFERRALS
01/16/07	(H)	L&C, JUD, FIN
01/31/07	(H)	L&C AT 3:00 PM CAPITOL 17
01/31/07	(H)	<Bill Hearing Canceled>
03/28/07	(H)	L&C AT 3:00 PM CAPITOL 17
03/28/07	(H)	Heard & Held
03/28/07	(H)	MINUTE(L&C)
04/04/07	(H)	L&C AT 3:00 PM CAPITOL 17
04/04/07	(H)	<Bill Hearing Canceled>
04/16/07	(H)	L&C AT 10:00 AM CAPITOL 17
04/16/07	(H)	Scheduled But Not Heard
04/20/07	(H)	L&C AT 3:00 PM CAPITOL 17
04/20/07	(H)	Heard & Held
04/20/07	(H)	MINUTE(L&C)
04/23/07	(H)	L&C AT 3:00 PM CAPITOL 17
04/23/07	(H)	Moved CSHB 65(L&C) Out of Committee
04/23/07	(H)	MINUTE(L&C)
04/24/07	(H)	L&C RPT CS(L&C) 2DP 3NR 1AM
04/24/07	(H)	DP: GATTO, NEUMAN
04/24/07	(H)	NR: BUCH, LEDOUX, OLSON
04/24/07	(H)	AM: GARDNER
05/02/07	(H)	JUD AT 1:00 PM CAPITOL 120
05/02/07	(H)	Heard & Held
05/02/07	(H)	MINUTE(JUD)
05/05/07	(H)	JUD AT 8:00 AM CAPITOL 120
05/05/07	(H)	Moved CSHB 65(JUD) Out of Committee
05/05/07	(H)	MINUTE(JUD)
05/07/07	(H)	JUD RPT CS(JUD) NT 4DP 2AM
05/07/07	(H)	DP: HOLMES, LYNN, COGHILL, RAMRAS
05/07/07	(H)	AM: DAHLSTROM, SAMUELS
01/23/08	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
01/23/08	(H)	Heard & Held
01/23/08	(H)	MINUTE(FIN)
02/13/08	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
02/13/08	(H)	Heard & Held
02/13/08	(H)	MINUTE(FIN)

02/18/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 02/18/08 (H) Heard & Held  
 02/18/08 (H) MINUTE(FIN)  
 02/19/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 02/19/08 (H) Moved CSHB 65(FIN) Out of Committee  
 02/19/08 (H) MINUTE(FIN)  
 02/21/08 (H) FIN RPT CS(FIN) NT 4DP 5NR  
 02/21/08 (H) DP: HAWKER, CRAWFORD, GARA, NELSON  
 02/21/08 (H) NR: KELLY, THOMAS, STOLTZE, MEYER,  
 CHENAULT  
 02/27/08 (H) TRANSMITTED TO (S)  
 02/27/08 (H) VERSION: CSHB 65(FIN)  
 02/29/08 (S) READ THE FIRST TIME - REFERRALS  
 02/29/08 (S) L&C, JUD, FIN  
 03/04/08 (S) L&C AT 1:30 PM BELTZ 211  
 03/04/08 (S) Heard & Held  
 03/04/08 (S) MINUTE(L&C)  
 03/13/08 (S) L&C AT 1:30 PM BELTZ 211  
 03/13/08 (S) Scheduled But Not Heard  
 03/15/08 (S) L&C AT 4:00 PM BELTZ 211  
 03/15/08 (S) Heard & Held  
 03/15/08 (S) MINUTE(L&C)  
 03/18/08 (S) L&C AT 1:30 PM BELTZ 211  
 03/18/08 (S) Moved CSHB 65(L&C) Out of Committee  
 03/18/08 (S) MINUTE(L&C)  
 03/19/08 (S) L&C RPT SCS 4DP SAME TITLE  
 03/19/08 (S) DP: ELLIS, BUNDE, DAVIS, STEVENS  
 03/29/08 (S) JUD AT 9:00 AM BUTROVICH 205  
 03/29/08 (S) Heard & Held  
 03/29/08 (S) MINUTE(JUD)  
 03/31/08 (S) JUD AT 1:30 PM BELTZ 211  
 03/31/08 (S) Heard & Held  
 03/31/08 (S) MINUTE(JUD)  
 04/03/08 (S) JUD AT 8:00 AM BELTZ 211

BILL: HB 307

SHORT TITLE: DOMESTIC VIOLENCE OFFENSES

SPONSOR(S): REPRESENTATIVE(S) HOLMES, GARA, DAHLSTROM,  
 FAIRCLOUGH, JOHNSON, BUCH, HARRIS, DOLL

01/11/08 (H) PREFILE RELEASED 1/11/08  
 01/15/08 (H) READ THE FIRST TIME - REFERRALS  
 01/15/08 (H) JUD, FIN  
 02/08/08 (H) JUD AT 1:00 PM CAPITOL 120  
 02/08/08 (H) Moved Out of Committee  
 02/08/08 (H) MINUTE(JUD)  
 02/11/08 (H) JUD RPT 5DP 1AM

02/11/08 (H) DP: DOOGAN, DAHLSTROM, SAMUELS, HOLMES,  
RAMRAS

02/11/08 (H) AM: COGHILL

02/20/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519

02/20/08 (H) Heard & Held

02/20/08 (H) MINUTE(FIN)

02/28/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519

02/28/08 (H) Heard & Held

02/28/08 (H) MINUTE(FIN)

03/14/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519

03/14/08 (H) Moved CSHB 307(FIN) Out of Committee

03/14/08 (H) MINUTE(FIN)

03/18/08 (H) FIN RPT CS(FIN) NT 2DP 5NR 1AM

03/18/08 (H) DP: GARA, NELSON

03/18/08 (H) NR: CRAWFORD, JOULE, THOMAS, STOLTZE,  
MEYER

03/18/08 (H) AM: HAWKER

03/26/08 (H) TRANSMITTED TO (S)

03/26/08 (H) VERSION: CSHB 307(FIN)

03/27/08 (S) READ THE FIRST TIME - REFERRALS

03/27/08 (S) JUD, FIN

04/02/08 (S) JUD AT 1:30 PM BELTZ 211

04/02/08 (S) PROBATION AND MINOR CONSUMING

04/03/08 (S) JUD AT 8:00 AM BELTZ 211

BILL: HB 88

SHORT TITLE: TVS AND MONITORS IN MOTOR VEHICLES

SPONSOR(S): REPRESENTATIVE(S) GATTO, GRUENBERG

01/16/07 (H) PREFILE RELEASED 1/12/07

01/16/07 (H) READ THE FIRST TIME - REFERRALS

01/16/07 (H) STA, JUD, FIN

01/29/07 (H) BILL REPRINTED 1/29/07

02/08/07 (H) STA AT 8:00 AM CAPITOL 106

02/08/07 (H) Scheduled But Not Heard

02/13/07 (H) STA AT 8:00 AM CAPITOL 106

02/13/07 (H) Heard & Held

02/13/07 (H) MINUTE(STA)

02/15/07 (H) STA AT 8:00 AM CAPITOL 106

02/15/07 (H) Heard & Held

02/15/07 (H) MINUTE(STA)

02/20/07 (H) STA AT 8:00 AM CAPITOL 106

02/20/07 (H) Moved CSHB 88(STA) Out of Committee

02/20/07 (H) MINUTE(STA)

02/21/07 (H) STA RPT CS(STA) NT 6DP 1NR

02/21/07 (H) DP: JOHNSON, JOHANSEN, ROSES,  
GRUENBERG, DOLL, LYNN

02/21/07 (H) NR: COGHILL  
 02/28/07 (H) JUD AT 1:00 PM CAPITOL 120  
 02/28/07 (H) Moved CSHB 88(JUD) Out of Committee  
 02/28/07 (H) MINUTE(JUD)  
 03/01/07 (H) JUD RPT CS(JUD) NT 2DP 4NR  
 03/01/07 (H) DP: GRUENBERG, LYNN  
 03/01/07 (H) NR: COGHILL, DAHLSTROM, SAMUELS, RAMRAS  
 04/18/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/18/07 (H) <Bill Hearing Postponed to 4/20/07>  
 04/20/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/20/07 (H) Scheduled But Not Heard  
 04/23/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/23/07 (H) <Bill Hearing Postponed>  
 04/25/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
 04/25/07 (H) Heard & Held  
 04/25/07 (H) MINUTE(FIN)  
 05/04/07 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
 05/04/07 (H) Scheduled But Not Heard  
 05/05/07 (H) FIN RPT CS(FIN) NT 4DP 5NR  
 05/05/07 (H) DP: GARA, NELSON, FOSTER, CRAWFORD  
 05/05/07 (H) NR: KELLY, JOULE, HAWKER, STOLTZE,  
 MEYER  
 05/05/07 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
 05/05/07 (H) Moved CSHB 88(FIN) Out of Committee  
 05/05/07 (H) MINUTE(FIN)  
 05/12/07 (H) TRANSMITTED TO (S)  
 05/12/07 (H) VERSION: CSHB 88(FIN)  
 05/12/07 (S) READ THE FIRST TIME - REFERRALS  
 05/12/07 (S) STA, JUD  
 03/13/08 (S) STA AT 9:00 AM BELTZ 211  
 03/13/08 (S) Scheduled But Not Heard  
 03/19/08 (S) STA RPT 3NR 1AM  
 03/19/08 (S) NR: MCGUIRE, STEVENS, GREEN  
 03/19/08 (S) AM: FRENCH  
 03/19/08 (S) STA AT 9:30 AM BELTZ 211  
 03/19/08 (S) -- Continued from 03/18/08 --  
 03/31/08 (S) JUD AT 1:30 PM BELTZ 211  
 03/31/08 (S) Scheduled But Not Heard  
 04/03/08 (S) JUD AT 8:00 AM BELTZ 211

BILL: HB 359

SHORT TITLE: PROBATION AND MINOR CONSUMING

SPONSOR(s): JUDICIARY

02/08/08 (H) READ THE FIRST TIME - REFERRALS  
 02/08/08 (H) JUD, FIN  
 02/20/08 (H) JUD AT 1:00 PM CAPITOL 120

02/20/08 (H) Moved CSHB 359(JUD) Out of Committee  
02/20/08 (H) MINUTE(JUD)  
02/21/08 (H) JUD RPT CS(JUD) NT 2DP 3NR  
02/21/08 (H) DP: GRUENBERG, RAMRAS  
02/21/08 (H) NR: COGHILL, DAHLSTROM, SAMUELS  
03/04/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/04/08 (H) Scheduled But Not Heard  
03/05/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/05/08 (H) Heard & Held  
03/05/08 (H) MINUTE(FIN)  
03/13/08 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/13/08 (H) Moved CSHB 359(FIN) Out of Committee  
03/13/08 (H) MINUTE(FIN)  
03/17/08 (H) FIN RPT CS(FIN) NT 6DP 2NR  
03/17/08 (H) DP: HAWKER, GARA, CRAWFORD, THOMAS,  
MEYER, CHENAULT  
03/17/08 (H) NR: KELLY, HARRIS  
03/26/08 (H) TRANSMITTED TO (S)  
03/26/08 (H) VERSION: CSHB 359(FIN)  
03/27/08 (S) READ THE FIRST TIME - REFERRALS  
03/27/08 (S) JUD, FIN  
04/02/08 (S) JUD AT 1:30 PM BELTZ 211  
04/02/08 (S) Bills Previously Heard/Scheduled  
04/03/08 (S) JUD AT 8:00 AM BELTZ 211

**WITNESS REGISTER**

REPRESENTATIVE JOHN COGHILL  
Alaska State Capitol  
Juneau, AK  
**POSITION STATEMENT:** Sponsor of HB 65.

REPRESENTATIVE LINDSEY HOLMES  
Alaska State Capitol  
Juneau, AK  
**POSITION STATEMENT:** Sponsor of HB 307.

RICK SVOBODNY Deputy Attorney General  
Civil Division  
Department of Law  
**POSITION STATEMENT:** Spoke in opposition to HB 307.

ANNE CARPENETI, Assistant Attorney General  
Department of Law (DOL)  
Juneau, AK  
**POSITION STATEMENT:** Highlighted problems associated with HB 307  
and provided information on HB 359.

DWAYNE PEEPLES, Deputy Commissioner  
Department of Corrections (DOC)  
Juneau, AK

**POSITION STATEMENT:** Provided fiscal information related to HB 307.

DOUGLAS WOOLIVER, Administrative Attorney  
Alaska Court System  
Juneau, AK

**POSITION STATEMENT:** Provided information related to HB 307 and HB 359.

RODNEY DIAL, Lieutenant  
Alaska State Troopers  
Department of Public Safety (DPS)  
Ketchikan, AK

**POSITION STATEMENT:** Voiced concern with HB 307 and support for HB 88.

#### **ACTION NARRATIVE**

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at [8:08:29 AM](#). Present at the call to order were Senators French, Huggins, Therriault, Wielechowski, and McGuire.

#### **HB 65-PERSONAL INFORMATION & CONSUMER CREDIT**

CHAIR FRENCH announced the consideration of HB 65 and asked for a motion to adopt Version \W.

[8:09:06 AM](#)

SENATOR HUGGINS moved to adopt the Senate committee substitute (CS) for CSHB 65, 25-LS0311\W, Bannister, as the working document.

CHAIR FRENCH announced that without objection Version \W is before the committee.

SENATOR THERRIAULT asked for a brief explanation of the changes.

CHAIR FRENCH relayed that Version \W incorporates only the changes the committee made during the previous hearing. There are four proposed amendments.

[8:10:07 AM](#)

SENATOR McGUIRE joined the meeting.

CHAIR FRENCH asked for a motion to adopt Amendment 1, 25-LS0311\T.9, Bannister.

SENATOR McGUIRE moved Amendment 1.

**A M E N D M E N T 1**

OFFERED IN THE SENATE  
TO: SCS CSHB 65(L&C)

Page 5, line 30, following "computer":  
Insert "or a radio frequency identification device"

Page 5, line 31, following "form;":  
Insert "in this subparagraph, "radio frequency identification device" means an electronic tagging and tracking technology that wirelessly transmits identifying information to a remote reader;"

CHAIR FRENCH objected for discussion purposes.

SENATOR McGUIRE explained that radio frequency identification devices (RFID) transmit and store personal information. She has conferred with the sponsor and this clarifies in the definitions that RFID would be covered. This is a rather new technology and as with other technology, there is potential for abuse. She noted that this committee passed her more comprehensive RFID bill, but she has decided to hold that bill for now due to the considerable, and she feels unjustified, concern about how it might impact legitimate commerce. She explained that the kinds of RFID chips used to move commerce and be part of the supply chain weren't meant to be impacted. She doesn't believe that they were, and she'll work to clarify that over the Interim. She is interested in protecting information containing social security numbers, names, and other personal information. Amendment 1 defines RFID in a way that is consistent with the rubric of the bill.

[8:12:54 AM](#)

CHAIR FRENCH asked the sponsor his view of Amendment 1.

REPRESENTATIVE JOHN COGHILL, sponsor of HB 65, agreed with Senator McGuire; the amendment clarifies, under the definition and breach of security sections, that RFID is included. It

alerts industry that when they begin to handle personal information, it will be safeguarded under the RFID issue.

SENATOR WIELECHOWSKI asked if this disallows acquisition of personal information on RFID chips.

SENATOR McGUIRE explained that the amendment clarifies that if there is a breach of security on consumer data, the penalties and disclosure would be the same as under this bill.

SENATOR WIELECHOWSKI posed the hypothetical example of someone using a Fred Meyers card that has an RFID chip, and asked if the inappropriate release of that data is what would fall under this amendment.

SENATOR McGUIRE replied that's correct.

CHAIR FRENCH withdrew his objection and finding no further objection, announced that Amendment 1 is adopted.

CHAIR FRENCH moved Amendment 2, 25-LS0311\W.1, Bannister, and explained that it follows up on the discussion about what to do when an information collector decides to not disclose. This essentially says that before someone makes that decision, they must make an investigation and send written notification to Mr. Sniffen or his successor [Commercial/Fair Business Section, Department of Law].

## A M E N D M E N T 2

OFFERED IN THE SENATE BY SENATOR FRENCH  
TO: SCS CSHB 65(JUD), Draft Version "W"

Page 2, lines 19 - 20:

Delete "consultation with relevant federal, state, or local agencies responsible for law enforcement"

Insert "written notification to the attorney general of this state"

SENATOR WIELECHOWSKI asked if this would significantly increase the fiscal note.

CHAIR FRENCH replied he doesn't know but his sense is that it would reduce the fiscal note because all costs fall on someone outside government. He understands the point that all the information will be funneled to a state employee, but Mr.

Sniffen indicated that the burden would be light. The bill next goes before the finance committee.

8:16:50 AM

SENATOR THERRIAULT said he supports the amendment and reporting to a central location. "I think this is a very good move," he said.

CHAIR FRENCH announced that without objection, Amendment 2 is adopted.

CHAIR FRENCH moved Amendment 3, 25-LS0311\W.2, Banister, and objected for discussion purposes.

**A M E N D M E N T 3**

OFFERED IN THE SENATE

TO: SCS CSHB 65(JUD), Draft Version "W"

Page 18, line 4, following "person":

Insert "subject to"

Page 18, line 7, following "person":

Insert "subject to"

Page 18, line 21, following "person":

Insert "subject to"

Page 18, line 24, following "person":

Insert "subject to"

Page 19, line 20, following "person":

Insert "subject to"

Page 19, line 24, following "person":

Insert "subject to"

REPRESENTATIVE COGHILL explained that this deals with industry issues related to the Gramm-Leach-Bliley Act (GLBA) and how to craft a means for legitimate business to operate. This talks about a person subject to GLBA in Sections .410, .420, and .430 with regard to those who can legitimately use social security numbers. The idea is to make it so that business can operate freely, but when there is a breach there are significant requirements. The concern centered on being able to deal with people who are subject to GLBA. He thought that was answered, but this makes it more explicit.

[8:18:51 AM](#)

CHAIR FRENCH asked if his intention is for each clause to say, "to a person subject to or a transaction regulated by the Gramm-Leach-Bliley Financial Modernization Act for a purpose authorized by the Gramm-Leach-Bliley Financial Modernization Act."

REPRESENTATIVE COGHILL said that's correct.

SENATOR THERRIAULT observed that it ties everything very closely to GLBA.

REPRESENTATIVE COGHILL agreed. The aim is to allow commerce to operate freely, but when someone is operating outside the law there are clear rules of accountability.

[8:20:16 AM](#)

SENATOR THERRIAULT asked whose problem this take care of.

REPRESENTATIVE COGHILL replied this addresses the concerns ChoicePoint and LexisNexis articulated in the last hearing. They pointed out that although they are regulated by GLBA, their customers may not be. He tends to agree and this provides them room to operate.

CHAIR FRENCH relayed that what GLBA says about obligations with respect to personal information is that the subsection shall not prevent a financial institution, which is what ChoicePoint and LexisNexis are, from providing non public personal information to a non affiliated third party. ChoicePoint and LexisNexis are concerned that the bill might undermine their freedom to operate in the financial world.

REPRESENTATIVE COGHILL added that GLBA and the FCRA are somewhat different in that one has express language and the other has permitted language. This seeks to include those laws in their disparate approach and still allow a good framework to work in Alaska. The addition of the phrase "subject to" smoothes it out a bit.

CHAIR FRENCH asked if he's comfortable with the amendment and if he believes industry is as well.

REPRESENTATIVE COGHILL said yes.

[8:23:19 AM](#)

SENATOR THERRIAULT asked if the word "person" refers to the data brokerage company.

CHAIR FRENCH clarified that it applies to the financial institution.

REPRESENTATIVE COGHILL added that it's the corporate definition of person.

CHAIR FRENCH removed his objection and announced that without further objection, Amendment 3 is adopted.

CHAIR FRENCH moved Amendment 4, 25-LS0311\W.3, Bannister, and objected for discussion purposes.

#### A M E N D M E N T 4

OFFERED IN THE SENATE

TO: SCS CSHB 65(JUD), Draft Version "W"

Page 20, line 20, following "information.":

Insert "In this subsection, "independent contractor" includes a debt collector."

REPRESENTATIVE COGHILL explained that he asked for the phrase "debt collection" to be removed [from .410(b)(5)] because the exemption under disclosure of social security numbers was too broad. But this allows it for legitimate business-to-business transactions where there's need for identification. Debt collection is one such example. This allows that to happen under exemptions for employees, agents, and independent contractors. He didn't intend for it not to be used for debt collection; he didn't want it to be the general rule so that everyone could demand collection of social security numbers for nearly any purpose under the guise of debt collection.

CHAIR FRENCH announced that without further objection, Amendment 4 is adopted.

[8:25:58 AM](#)

CHAIR FRENCH found no further amendments or discussion and asked for a motion.

SENATOR McGUIRE motioned to report Senate CS for CSHB 65, as amended, and attached fiscal note(s) from committee with individual recommendations.

CHAIR FRENCH announced that without objection, SCS CSHB 65(JUD) is moved from the Senate Judiciary Committee.

At ease [8:26:19 AM](#).

### **HB 307-DOMESTIC VIOLENCE OFFENSES**

[8:27:36 AM](#)

CHAIR FRENCH announced the consideration of HB 307 and asked for a motion to adopt Version \0 as the working document.

SENATOR McGUIRE moved the Senate CS for CSHB 307, 25-LS1236\0, Luckhaupt, as the working document.

[8:27:58 AM](#)

REPRESENTATIVE LINDSEY HOLMES, Sponsor of HB 307, said this bill is known colloquially as a three strikes domestic violence bill. It responds to the fact that Alaska ranks at the top on nearly every indicator for violence against women and first in the nation for rape of female victims killed by male perpetrators. In 2005 there were 6,000 reported cases of domestic violence. HB 307 is not a one-stop solution; it tries to chip away at the problem, but education and a change in attitude are also vital components.

REPRESENTATIVE HOLMES explained that HB 307 seeks an increased penalty for an offender convicted of a fourth degree physical assault involving domestic violence, who has two prior convictions in the last ten years. The predicate priors can be either a fourth degree assault or a list of felonies including sexual assault, stalking, and manslaughter. Upon a third conviction, a class A misdemeanor crime is increased to a class C felony. The bill is prospective so all three strikes would have to occur after the effective date and within ten years of each other. She noted the letters of support.

[8:30:12 AM](#)

REPRESENTATIVE HOLMES explained that the Senate CS [Version \0] makes two changes. The first is the intent language in Section 1. The intent is that the bill is aimed at perpetrators and not innocent victims. It was brought to the sponsors' attention that the old intent language required the court to make a particular finding that would interfere with plea agreements. The sponsors understand that this new intent language fixes that problem.

SENATOR THERRIAULT questioned the need for the intent section. "With any of our laws we want to get the bad guys, not the innocent victims so we don't need to say that."

CHAIR FRENCH welcomed the sponsor to the judiciary committee where Senator Therriault sits and patiently waits for intent language to come along.

REPRESENTATIVE HOLMES agreed that it's not as important as the rest of the bill. She explained that it was inserted at the request of provider communities and serves as a reminder.

[8:32:27 AM](#)

REPRESENTATIVE HOLMES relayed that the second change addresses proof of the domestic violence element. Originally it had to be proved on all three strikes, but she has been convinced that that would be too unwieldy. Now the domestic violence element needs only be proved on the third strike.

CHAIR FRENCH characterized the change as wise.

[8:33:10 AM](#)

RICK SVOBODNY Deputy Attorney General, Civil Division, Department of Law , said he is here to speak in opposition to HB 307. The Senate Judiciary Committee has already heard and passed SB 234, and DOL views it as a better approach for dealing with repeat assaultive domestic violence offenders. This bill creates unforeseen consequences that can be detrimental to the prosecution of domestic violence cases and the entire scheme of domestic violence protective laws in this state. He agreed with the sponsor that this is a special problem in the state. And, he said, it's a particular problem because of its prevalent and the inherent difficulties in prosecuting domestic violence assaults that don't exist in other crimes. Special problems involved include: emotions, relationships, the prevalence of recanting by the victim, and the need to give immunity. A huge problem is that domestic violence is intergenerational; kids learn this behavior. He understands the sponsor's commitment to the issue and he agrees completely, but in his view SB 234 is a better approach for a number of reasons.

[8:35:50 AM](#)

MR. SVOBODNY relayed that this body has created a system of intentional laws. Title 18 has protective orders that aren't very expensive to the victim of domestic violence, they occur fast, and lawyers generally aren't involved. You've made arrests mandatory and you've required the DOL to look at the primary and

the initial aggressor and you've dealt with sentencing laws, he said. You've made it a mandatory minimum for a second time misdemeanor offense of 60 days in jail, and for felony matters you've made two aggravating factors to allow for enhanced sentencing if the case is domestic violence. If HB 307 passes, those felony aggravators go away because the law doesn't allow two bites at the apple. If a crime is enhanced because it's domestic violence, the fact that domestic violence was involved won't allow, in a felony sentence, an enhanced sentence.

CHAIR FRENCH pointed out that you never get to use an aggravator on a misdemeanor assault.

MR. SVOBODNY clarified that he's talking about felonies.

CHAIR FRENCH responded that he understands that, but HB 307 talks about just one kind of felony, a fourth degree assault that will become a felony.

Absent that aggravation, absent that elevation, it's a fourth degree assault. It's recklessly causing physical injury and you're stuck in misdemeanor court. We frequently use the aggravators--we'll talk about the aggravators in misdemeanor court as a way to get the judge to impose a little more time--but legally you've got nothing on the fourth degree assault with an aggravator.

[8:38:07 AM](#)

MR. SVOBODNY said that's correct, but this bill makes that fourth degree assault, if it's the third time, a felony.

CHAIR FRENCH said he understands his point. If domestic violence isn't an element of the crime, if it's just three strikes you can use it. It's made a felony by the fact that it's an assault, but then this says that it's the aggravator.

MR. SVOBODNY agreed. For repeat domestic violence offenders we want to be able to go above the zero to two year [sentencing] range, but under this bill we won't have the aggravating factor that it was a domestic violence case because it was an element, he said. That wasn't an issue in SB 234.

CHAIR FRENCH asked how many aggravators potentially apply and Mr. Svobodny said there are two.

MR. SVOBODNY continued to articulate his concern with HB 307 explaining that the legislature has also dealt with the criminal laws related to assaultive behavior, violating a protective order, and interfering with a report of domestic violence. But no Title 11 law requires the state to prove that any of those are a domestic violence offense. This is a new element for prosecutors and there is an unintended consequence. When the legislature created the definition of domestic violence the intention was to make it as broad as possible because it's a civil matter dealing with emergency situations and protecting a person.

[8:40:40 AM](#)

MR. SVOBODNY highlighted that his concern is that the state has never had to deal with that broad definition of domestic violence in criminal cases because it isn't an element. Twice it's come up in the court of appeals and two of the three justices clearly signaled there is a constitutional problem with using that definition in criminal cases. Either it's void for vagueness or it's over broad. If HB 307 passes it will be an element of the offense and those judges will have to decide the constitutionality of that definition. "I am concerned that an unintended consequence is that the definition of domestic violence is going to be declared unconstitutional and that really has a huge problem for the issues of obtaining protective orders," he said. That unintended consequence doesn't arise in the approach taken in SB 234., because it's not necessary to prove the element of domestic violence.

[8:43:09 AM](#)

MR. SVOBODNY expressed concern with the core drafting of the definition of domestic violence. Under Section 3 it will be necessary to prove: two or more predicate offenses; that a person recklessly caused physical injury or with criminal negligence they caused physical injury by means of a dangerous instrument; and domestic violence. The definition of domestic violence is: arson, criminal trespass, criminal mischief, murder, and assaults so the elements will be that the state has to prove there was reckless physical injury. Now the state has to again prove recklessly caused physical injury and then the household relationship. The point is that it's repetitious and doesn't make logical sense, he said.

[8:45:00 AM](#)

CHAIR FRENCH asked if it isn't a question of a prosecutor having to prove that a husband beat his wife or a boyfriend beat his girlfriend.

MR. SVOBODNY replied he absolutely believes that.

CHAIR FRENCH agreed that it may be a bit fuzzy when it's written down, but when a prosecutor says it's a case involving domestic violence that is a phrase that jurors understand.

MR. SVOBODNY agreed. He understands that the actual proof of domestic violence isn't going to be that difficult, but he has some concern with things like what is a dating relationship.

CHAIR FRENCH responded that's something the prosecutor makes in every case. You don't, for example, bring a case between two guys on a crab boat and try to make it a felony, he said. You'll bring a case that looks like a husband, again, beat up his wife.

MR. SVOBODNY said that's correct.

ANNE CARPENETI, Assistant Attorney General, Department of Law (DOL) said it wouldn't be difficult to prove domestic violence in the case of a husband beating his wife, but the irony of HB 307 is that in the fringe cases it doesn't help victims of domestic violence as much as SB 234. It will be much more difficult to prove domestic violence in cases of recanting victims in a dating or sexual relationship because there won't be a victim, there won't be a defendant and nobody will testify that they had a physical or dating relationship.

[8:47:03 AM](#)

SENATOR WIELECHOWSKI asked if the administration views domestic violence abuse as worse from a societal standpoint than other assaults, such as a bar fight.

MR. SVOBODNY said you can't make that societal distinction. If you're the victim you're hurting just like any other victim, but domestic violence is a greater problem for other reasons. Domestic violence is done in front of children and it teaches that behavior. That isn't the case in a barroom fight. Domestic violence cases aren't public so they're more difficult to prosecute; barroom fights generally have witnesses. Domestic violence victims recant, barroom fight victim are less likely to later say their black eye was the result of running into the door.

SENATOR WIELECHOWSKI agreed that the victim won't care about the type of relationship they have with the abuser. Unfortunately though, he said, ours is a system that has great cost attached

to putting people in jail. He asked the amount of the fiscal note on SB 234.

MR. SVOBODNY deferred to Mr. Peeples.

[8:49:28 AM](#)

DWAYNE PEEPLES, Deputy Commissioner, Department of Corrections (DOC), said the last cost that was projected to 2014 was \$20.8 million. It builds up over a period of 5 years because it's prospective.

CHAIR FRENCH asked if DOC had accounted for the latest changes in HB 307.

MR. PEEPLES replied that based on the most recent numbers supplied the court system, implementation at 2014 would be \$8.9 million, rounded up.

CHAIR FRENCH noted that that was taking into account only domestic violence priors and this version takes into account nearly all assaults.

[8:50:54 AM](#)

MR. PEEPLES said he'd have to wait for an updated court analysis before he could give new numbers.

[8:51:07 AM](#)

DOUGLAS WOOLIVER, Administrative Attorney, Alaska Court System, relayed that the court has been running numbers for all the various versions of both bills. He received the current draft CS yesterday and expects to have new numbers sometime today.

SENATOR WIELECHOWSKI commented that the legislature could make the policy choice to spend \$20 million or it could make the policy choice to spend \$8.9 million to target a different set of offenders. You understand that policy call, she said.

MS. CARPENETI referred to the comment about bar fights and explained that when those are prosecuted it's a mutual combat disorderly conduct prosecution. It's a class B misdemeanor that carries a maximum sentence of 10 days. We're not talking about bar fights here; we're talking about people who aggressively hurt other people, she said. Bar fights don't get class A misdemeanors.

DOL continues to believe that SB 234 is a better protection for domestic violence victims in areas where the domestic violence

relationship isn't as clear. Also, once it's an element of the offense, it's lost as an aggravating factor in sentencing at the felony level. If cost is part of the concern, DOL suggests limiting the look-back or limiting the predicate offenses to assault and stalking. As a practical matter homicide and sexual offenses tend to have very long sentences anyway, so it's less likely that somebody in 10 years would have two predicates that would include sex offenses or homicide offenses. She reiterated that once you take away the proof of domestic violence, domestic violence victims have a lot more protection.

[8:54:29 AM](#)

SENATOR McGUIRE asked what the policy was when the governor's bill was first introduced.

MS. CARPENETI relayed that the policy in SB 234 is to address bullies who repeatedly beat up people. She reminded members about the crime summit testimony that highlighted that there are people in Anchorage who have 12 to 15 convictions for fourth degree assault. Those crimes are repeatedly charged and prosecuted at the class A misdemeanor level. SB 234 seeks to stop that chain of violence at a felony level. The tools are better; there's a five year maximum sentence and felony probation, which is actual supervised probation. DOL's intent was to get perpetrators of domestic violence and other people, too, who are dangerous and hurt people on a basis that is consistent enough to qualify for the three convictions and ten-year look-back. Bar fights don't get class A misdemeanors.

[8:56:51 AM](#)

RODNEY DIAL, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS), echoed the concerns expressed by DOL with respect to HB 307. DPS has a goal to put the worst offenders away for as long as possible. We appreciate the intent of HB 307 and see the need for enhanced penalties, but we believe that it could make prosecutions and longer sentences more difficult, he said. We instead encourage support of SB 234.

CHAIR FRENCH asked if DOL made this same presentation to the other body.

MR. SVOBODNY replied yes and no. The argument he did not make to that body was about the unintended consequences. He noted that Peggy Brown with the Network on Domestic Violence and Sexual Assault testified that the domestic violence community wasn't united in support or opposition to the bill because of the unintended consequences.

CHAIR FRENCH asked if he has a major concern about having to prove domestic violence with each predicate prior.

MR. SVOBODNY said yes; that becomes a huge problem.

CHAIR FRENCH observed that Version \0 represents a tremendous change from the original bill. It gives up all those domestic violence priors and makes the district attorney's job easier.

[9:00:22 AM](#)

MR. SVOBODNY concluded his comments first by restating the suggestion about potential cost savings in SB 234 by limiting the predicate crimes and reducing the look back. Second, he agreed with the sponsor that it's time-consuming for judges to make a factual finding in each case. Removing that requirement improves the bill.

[9:01:58 AM](#)

SENATOR THERRIAULT asked if DOL was asked to hold its concerns until the bill was heard in this body.

MS. CARPENETI replied that is correct. She added that DOL has worked cooperatively with the sponsor so its opposition isn't a surprise to anyone. The concern about importing civil language into criminal prosecution language hasn't been stated because DOL, too, is evolving in its understanding of the bill.

SENATOR THERRIAULT said that if the Network has concerns with the bill and the potential for unintended consequences, he wants to know about that.

CHAIR FRENCH noted that no one from the Network signed up to testify, but there's another chance this afternoon.

[9:03:20 AM](#)

CHAIR FRENCH recessed the meeting until 1:30.

[1:44:01 PM](#)

CHAIR FRENCH reconvened the meeting and asked the sponsor her view of the testimony she heard this morning.

REPRESENTATIVE HOLMES said she took exception to a number of things that were said this morning, but in light of the testimony and subsequent discussion there is an amendment.

[1:45:08 PM](#)

SENATOR McGUIRE moved to adopt Amendment 1.

**AMENDMENT 1**

OFFERED IN THE SENATE BY SENATOR MCGUIRE  
TO: SCS CSHB 307(JUD)(25-LS1236\0)

Page 1, line 1:  
Delete "domestic violence"

Page 2, line 18:  
Delete: "involving domestic violence"

Page 3, line 2-12:  
Delete all material

CHAIR FRENCH objected for discussion purposes.

SENATOR McGUIRE explained that the amendment deletes reference to domestic violence because it has been shown to be problematic in this bill. DOL and DPS have committed to support the bill with this amendment.

CHAIR FRENCH removed his objection and finding no further objection, announced that Amendment 1 is adopted. Finding no one else who wished to testify, he closed public testimony. He noted that a title change may be required.

[1:47:04 PM](#)

SENATOR McGUIRE motioned to report the amended Version \0 Senate CS for CSHB 107 and attached forthcoming fiscal note(s) from committee with individual recommendations.

CHAIR FRENCH announced that without objection SCS CSHB 107(JUD) is moved from committee.

At ease from [1:47:28 PM](#) to [1:48:23 PM](#).

SENATOR McGUIRE motioned to forward a conforming title change resolution along with HB 307. There being no objection it was so ordered.

**HB 359-PROBATION AND MINOR CONSUMING**

CHAIR FRENCH announced the consideration of HB 359. [Before the committee was CSHB 359 (FIN).]

[1:48:57 PM](#)

REPRESENTATIVE RAMRAS, Sponsor of HB 359, said this bill seeks to take advantage of the greatest vocational rehabilitation program in the nation by helping minors on probation to join the armed services. Current Alaska law requires the court to place a minor who is convicted of consuming on probation until age 21. "As long as the State of Alaska has its thumb on you, Uncle Sam can't own you, which is their expectation when you join the armed services," he said.

[1:50:19 PM](#)

EMILY BEATLEY, Staff to Representative Ramras, explained that under the current minor consuming statute, the court is required to place a convicted person on probation for one year from the date of conviction or until the person reaches the age of 21, whichever is later. For a 16 year old that can mean a probation term of 5 years with no possibility for it to be lifted. HB 359 adds a subsection to AS 04.16.050 giving courts the authority to terminate the probation with the exception of habitual minor consuming. The bill also amends the current statute establishing new probation terms of up to one year for first and second violations. No change is made to the habitual minor consuming probation term. HB 359 offers good young Alaskans who have made mistakes the opportunity to learn, to grow, and to work toward becoming more disciplined and law-abiding individuals.

CHAIR FRENCH noted that alcohol crimes are different than others. It's possible to be convicted of DWI at age 16 even though for other crimes that same person would be processed through the juvenile system. He asked how this crime is treated.

MS. BEATLEY deferred to Ms. Carpeneti with the Department of Law (DOL).

[1:52:35 PM](#)

ANNE CARPENETI, Assistant Attorney General, Criminal Division, Department of Law (DOL), explained that Title 47 provides that minor consuming is a crime that is not subject to juvenile jurisdiction. The legislature made that change in 1994. Before that it was considered a delinquent act over which the Department of Health and Social Services had jurisdiction.

CHAIR FRENCH added that it's a charging decision the officer makes about whether to write a minor consuming citation. But once the citation is written, it's an adult offense.

MS. CARPENETI agreed; officers do use discretion and sometimes take the minor home. Sometimes, though, it's better to write the citation and have a consequence for the young person.

CHAIR FRENCH said he imagines that 13-15 year olds often get charged with minor consuming and get caught up under the probation provisions.

MS. CARPENETI agreed.

CHAIR FRENCH said he understands that for the last few years a 15-year-old, for example, who is convicted of minor consuming stays on probation until age 21.

MS. CARPENETI explained that that was a well-intended but unsuccessful effort in 2001 to deal with the huge problem of underage drinking in this state. The unintended consequence was that young people can't join military service while on probation, and this bill intends to address that.

[1:54:50 PM](#)

CHAIR FRENCH asked what the state can hold over a youth who is on probation.

MS. CARPENETI said there's no probation supervision for misdemeanors in our state, but the statute mandates certain things that kids have to do under these circumstances. Probation would at least allow enforcement of conditions, like going to an alcohol information class.

CHAIR FRENCH asked the maximum penalty for minor consuming.

MS. CARPENETI said that for the first and second violation it's a violation and there's no jail time. A third violation is a class B misdemeanor.

CHAIR FRENCH noted that page 2, line 9, provides a \$200-\$600 fine for the first violation.

MS. CARPENETI added that for a second or repeat violation there's a \$1,000 fine, but the court has the ability to suspend half of the fine. The third violation is a B misdemeanor and as such has many more options.

CHAIR FRENCH asked if the cumulative penalties still apply.

MS. BEATLEY relayed that subsection (e) on page 3, says that persons convicted under subsections (b)(2), (c), or (d) shall be placed on probation. Each is an individual violation and the probation periods are listed separately.

CHAIR FRENCH asked the maximum probation period for a first offense, if this bill passes.

MS. BEATLEY said for the first and second offense it's up to one year. She agreed with Chair French that habitual consuming hasn't been adjusted because it's a separate criminal violation.

CHAIR FRENCH asked for an explanation of Section 5.

[1:58:27 PM](#)

MS. BEATLEY relayed that that was added because there was no ability to make a motion to the court to lift probation conditions. This section allows someone who has met the conditions of their probation to make a motion to the court to have the balance of their probation period terminated.

SENATOR MCGUIRE asked if this section models any other statute.

MS. BEATLEY said no, it comes from legislative drafters.

SENATOR MCGUIRE asked the definition of the phrase "good faith effort" on page 4, lines 1 and 7.

MS. BEATLEY said the House Judiciary Committee added that phrase; it was to be at the court's discretion.

SENATOR MCGUIRE asked if "good faith effort" is meant to be something beyond entering into the repayment plan that's mentioned on line 2.

MS. BEATLEY relayed her understanding that the repayment plan would be entered into after probation is lifted so the state could continue to recover the fines after the probation term was lifted.

[2:01:13 PM](#)

CHAIR FRENCH asked if this section applies prospectively or also to those currently on probation.

MS. BEATLEY said she understands it would apply to those currently under probation. The fiscal note decreases over time reflecting the 3,500 folks that would be able to motion to the

court for their probation to be lifted. Responding to a question, she explained that 3,500 folks would come under the bill and the court assumes that about 2,500 would be 17 years of age or older and actually motion to the court for their probation to be lifted.

[2:02:25 PM](#)

SENATOR WIELECHOWSKI observed that this should have a positive impact on the state treasury, but the fiscal note doesn't reflect that.

MS. BEATLEY deferred to Mr. Wooliver.

CHAIR FRENCH asked why petitioning the court shouldn't be the approach for all the probation terms.

MS. BEATLEY explained that some House Finance Committee members thought the probation periods were excessive and this was a way to address that.

CHAIR FRENCH commented that the wise members of that committee picked a year of probation.

REPRESENTATIVE RAMRAS said he gladly accommodated that point of view to maintain the momentum, but he shares the Chair's interest in this particular provision. There was some thoughtful debate about how to deal with young people who did "not really doing anything that bad." The conversation was tactful and there were varying degrees of tolerance for the one-time offender who gets caught in the legal system for up to four years. We tried to bring some balance there knowing that if the Senate members thought otherwise, there would be an opportunity to remedy it, he said.

CHAIR FRENCH agreed that it seems like a good idea.

[2:05:55 PM](#)

DOUGLAS WOOLIVER, Administrative Attorney, Alaska Court System, explained that the fiscal note is based on the number of people under age 21 who are currently on probation under the existing law. There are about 3,500 people. He assumed that those most likely to petition the court would be age 17-21 and there are about 2,500 people in that category today. He further assumed that 25 percent of those would petition the court. If 25 percent of the 3,500 people petition in year one, another 1,000 will likely petition in the second year and thereafter the number of people coming to the court doesn't warrant a fiscal note.

CHAIR FRENCH summarized that you expect a flurry of activity the first year and a reduction thereafter. Mr. Wooliver agreed.

[2:07:29 PM](#)

THOMAS CAPSAN, Brigadier General, Army National Guard, said this is an important bill and he appreciates it more all the time. He retired from the Anchorage Police Department after 21 years and during that time he had to enforce a similar law for juveniles drinking. When he retired he joined the National Guard full time and was in charge of the counter-drug unit. Now he's in charge of recruiting and retention with the Alaska Army National Guard and he sees kids trying to make good choices, but they can't enter the military because they are screened out due to their probation status. This bill is critical to provide a pool of people options so they can continue on the path of making good choices.

[2:11:07 PM](#)

CHAIR FRENCH, finding no one else who wished to testify, closed public testimony and announced he would hold HB 359 overnight to think about the policy choice in Section 5.

#### **HB 88-TVS AND MONITORS IN MOTOR VEHICLES**

[2:11:33 PM](#)

CHAIR FRENCH announced the consideration of HB 88. [Before the committee was CSHB 88(FIN).]

REPRESENTATIVE GRUENBERG, Sponsor of HB 88, said that as a result of the comments in the last committee, there is a proposed amendment. This legislation deals with the distraction of watching a video display while driving. This distraction may have caused several fiery deaths on Alaska highways. If it's shown that the driver was watching a video display, or that it is on and in a position to be watch while the vehicle is underway, the punishment is negligent homicide if a death results. It's a class A misdemeanor if the device is on and no wreck occurred. He has no objection to proposed amendment V.1.

[2:14:09 PM](#) at ease. [2:15:10 PM](#)

REPRESENTATIVE GRUENBERG referred to a news article about watching movies on cell phones and said that, too, would be prohibited under the bill.

CHAIR FRENCH referred to page 2, line 8, that exempts audio equipment information, functions, and controls and asked if, in addition to radios, this is meant to also exempt iPods.

REPRESENTATIVE GRUENBERG said he understands that you listen to an iPod and that would be exempt. "I don't have any problem with people listening," he said.

CHAIR FRENCH relayed that they're now being used as portable car stereos, but you have to look at the iPod to select the music.

REPRESENTATIVE GRUENBERG replied that's okay; it's the same as a radio.

[2:17:17 PM](#)

CHAIR FRENCH moved Amendment 1, 25-:LS0312\V.1, Luckhaupt, and objected for discussion purposes. The idea is to exempt cell phones, such as an iPhone, that display a picture of the person calling. He doesn't think that looking at a picture of the person calling should be a crime. He acknowledged there are people who want to ban the use of cell phones while driving, but this bill doesn't do that.

#### AMENDMENT 1

OFFERED IN THE SENATE  
TO: CSHB 88(FIN)

Page 2, line 6, following "communication":  
Insert "or displaying caller identification information"

CHAIR FRENCH withdrew his objection and finding no further objection, announced that Amendment 1 is adopted.

CHAIR FRENCH asked the sponsor to describe the core activity he's targeting.

REPRESENTATIVE GRUENBERG replied he's targeting those who watch movies or something similar while driving.

CHAIR FRENCH asked him to explain the elevated penalty structure.

REPRESENTATIVE GRUENBERG explained that 13 AAC 04.260 currently makes it an infraction for a motor vehicle driven in Alaska to be equipped with television-type receiving equipment that is in

view of the driver's seat. The punishment is a small fine. This bill raises the penalty: to a class A misdemeanor if no injury occurs, a class C felony if physical injury to another person occurs, a class B felony if serious physical injury occurs, and a class A felony if a death occurs. Serious physical injury is defined in Title 11.

REPRESENTATIVE GRUENBERG clarified that his staff pointed out that he previously was reading from subsection (a) of 13 AAC 04.260 and subsection (b) reads as follows:

(b) A driver of a motor vehicle may not wear a headset, headphones, or other headgear designed for receiving sound and transmitting sound to the driver, or wear ear plugs or a similar device which reduces the driver's hearing ability while driving a vehicle.

The bill doesn't deal with that, it will remain an infraction, he said. Subsection (c) provides the following exemption:

(c) This section does not prohibit the use of television-type or headgear-receiving equipment used exclusively for safety or law enforcement purposes, used for and designed to improve a driver's hearing ability, or navigational devices such as Global Positioning System (GPS) or Loran.

SENATOR WIELECHOWSKI said that's a good point because GPS screens are popular. He asked if he's saying that a GPS located in the driver's view would not fall under this.

[2:21:06 PM](#)

REPRESENTATIVE GRUENBERG said yes; page 2, subsections (c)(2)(C) and (c)(2)(D), exempt navigation or global positioning equipment and maps. That's essential, he said.

SENATOR MCGUIRE commented that her GPS displays a warning to drivers that are using the equipment while operating a vehicle.

[2:22:00 PM](#)

RODNEY DIAL, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS), said DPS supports HB 88 because it helps keep Alaska driving laws current with changes in technology. To cite someone now, troopers must prove two elements: that a qualifying device is installed, and that it's in the driver's view. The statute doesn't say the equipment has to be turned on. Under this bill four elements must be proved: that the person is

driving, that the qualifying device is present, that the device is in full view of the driver, and that the display is operating while the vehicle is in motion. An alternative element is that someone has illegally installed or altered a device so that it can be viewed by the driver while the vehicle is going down the road. DPS sees this as a good change in law, he said.

TROOPER DIAL described the accident mentioned previously: two occupants were killed, a vehicle did cross the center line, it was alleged that the driver was watching a movie at the time, a unit was installed such that it could be viewed by the driver while the vehicle was moving. "Had this bill been in effect, that person could have been charged with a class A misdemeanor, at a very minimum."

[2:24:14 PM](#)

CHAIR FRENCH said this is an interesting bill because of the convergence of communication, entertainment, and scheduling devices. Soon devices like the Blackberry and the iPhone will be all-in-one. In some instances they're safe to use while driving, but in other instances they wouldn't be safe at all. His view is that this law will be tough to enforce, but it's a good policy to hammer people that are doing things that aren't safe.

LIEUTENANT DIAL said there will be mitigating instances, but this will help in certain situations.

[2:26:00 PM](#)

CHAIR FRENCH found no one else who wished to testify and closed public testimony.

SENATOR McGUIRE motioned to report CS for HB 88 from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection SCS CSHB 88(JUD) is moved from the Senate Judiciary Committee.

There being no further business to come before the committee, Chair French adjourned the meeting at [2:26:33 PM](#).