

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 27, 2007

1:32 p.m.

MEMBERS PRESENT

Senator Johnny Ellis, Chair
Senator Gary Stevens, Vice Chair
Senator Bettye Davis
Senator Con Bunde

MEMBERS ABSENT

Senator Lyman Hoffman

COMMITTEE CALENDAR

SENATE BILL NO. 84

"An Act relating to the burning capability of cigarettes being sold or offered for sale, or possessed for sale; relating to compliance certifications by tobacco product manufacturers, a directory of tobacco product manufacturers, the affixing of stamps to cigarette packages, and cigarette tax stamps; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 68

"An Act requiring motor vehicle insurers to provide to the commissioner of administration a database listing vehicle insurance policy information that will allow the commissioner to verify whether mandatory motor vehicle insurance has been obtained, limiting access to the database, establishing methods for proving that mandatory motor vehicle insurance is in place, allowing the additional penalties of suspending registration and vehicle impoundment and forfeiture for failure to have mandatory motor vehicle insurance, and authorizing hearings after suspension of registration for failure to have mandatory motor vehicle insurance."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 84

SHORT TITLE: TESTING & PACKAGING OF CIGARETTES

SPONSOR(s): SENATOR(s) OLSON

02/14/07 (S) READ THE FIRST TIME - REFERRALS
02/14/07 (S) L&C, JUD, FIN
02/27/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 68

SHORT TITLE: MOTOR VEHICLE INSURANCE
SPONSOR(S): SENATOR(S) FRENCH

01/26/07 (S) READ THE FIRST TIME - REFERRALS
01/26/07 (S) L&C, TRA, FIN
02/08/07 (S) L&C AT 1:30 PM BELTZ 211
02/08/07 (S) Heard & Held
02/08/07 (S) MINUTE(L&C)
02/27/07 (S) L&C AT 1:30 PM BELTZ 211

WITNESS REGISTER

SENATOR DONNY OLSON
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Sponsor of SB 84.

DENISE LICCTOLI
Staff to Senator Olson
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Commented on SB 84 for the sponsor.

STEVE "RUSTY" BELANGER
State Fire Marshal
Division of Fire Prevention
Department of Public Safety (DPS)
Anchorage AK
POSITION STATEMENT: Supported SB 84.

DOUG SCHRAGE, Fireman
Anchorage Fire Department
Anchorage AK
POSITION STATEMENT: Supported SB 84.

WARREN CUMMINGS
Alaska Fire Chiefs Association
Fairbanks AK
POSITION STATEMENT: Supported SB 84.

JOANNA BALES, Manager
Excise Audit Division
Department of Revenue (DOR)
Juneau AK

POSITION STATEMENT: Commented on SB 84.

RAY BIZAL, Western Regional Manager
National Fire Protection Association (NFPA)
No address provided

POSITION STATEMENT: Supported SB 84.

SENATOR HOLLIS FRENCH
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor of SB 68.

ALLISON BIASTOCK
Staff to Senator French
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Supported SB 68.

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

POSITION STATEMENT: Commented on SB 68.

KENTON BRINE, Manager
Northwest Region
Property Casualty Insurers Association of America
No address provided

POSITION STATEMENT: Opposed SB 68.

LINDA HALL, Director
Division of Insurance
Department of Commerce, Community & Economic Development
Juneau AK

POSITION STATEMENT: Neutral position on SB 68.

ACTION NARRATIVE

CHAIR JOHNNY ELLIS called the Senate Labor and Commerce Standing Committee meeting to order at [1:32:20 PM](#). Present at the call to order were Senators Stevens, Bunde, Davis, and Ellis.

SB 84-TESTING & PACKAGING OF CIGARETTES

CHAIR ELLIS announced SB 84 to be up for consideration.

SENATOR DONNY OLSON, sponsor of SB 84, invited his staff to the witness table. He said that children are a major portion of burn statistics and that SB 84 mandates that only fire-safe cigarettes can be sold in Alaska and establishes the testing and certification requirements. He said that so-called fire-safe cigarettes are reduced ignition propensity cigarettes. They are designed to be less likely than a conventional cigarette to ignite soft furnishings such as a couch or a mattress. The bill also provides for the marking of cigarette packaging in an approved and easily identifiable manner to indicate that the contents are fire-safe.

He stated that cigarettes are the leading cause of home fatalities in Alaska and the U.S. The most common materials first ignited in home fires are mattresses and bedding, upholstered furniture and floor coverings. Often cigarettes are lit, then forgotten by a smoker; it can smolder for hours. He said this legislation was brought to his attention by the Fire Chiefs and it is also supported by Phillip Morris.

CHAIR ELLIS stated that a committee substitute, version M, was before the committee.

[1:37:06 PM](#)

DENISE LICCTOLI, staff to Senator Olson, sponsor of SB 84, explained the differences in the CS are predominantly wording changes. The title has been shortened to reflect a change at the end of the bill, which removed some sections that were referenced in it.

CHAIR ELLIS said he supported that and asked for the major changes to be explained first.

[1:37:56 PM](#)

MS. LICCTOLI said that Sec. 18.74.065 was added to allow the fire marshal to perform testing under the terms of this chapter. The preferences given to the package markings are standards that are already being used in the State of New York. New language was added on page 6, lines 6 - 9, saying "FSC" meaning "fire standards compliant" would be accepted as a marking on the cigarettes.

She said the next substantial change was on page 9, lines 9 - 12, where language now says the state fire marshal shall use the standards of New York as persuasive authority rather than requiring the implementation as done in New York.

CHAIR ELLIS said he knew the industry was worried about 50 different standards in 50 different states and asked if the New York standards were more regular.

MS. LICCTOLI answered yes; the tobacco industry's concern from a business perspective is that each state has its own way of dealing with this law - and that would mean different types of cigarettes. However, because there is currently no federal law, most states that have adopted this measure have adopted the New York law. So consistency is there.

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Sections 2, 3, 4, and 5 were eliminated from the original bill because they regarded tobacco tax laws that are not appropriate to reference in talking about the burning propensity of cigarettes.

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SENATOR BUNDE noted there was no fiscal note from the state fire marshal.

MS. LICCTOLI said the fire marshal was on line to testify if he wanted to ask him that question.

CHAIR ELLIS said the committee would come back to him.

SENATOR STEVENS asked if the sponsor statement is applicable to the CS.

SENATOR OLSON replied that it applies to version M as well.

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SENATOR BUNDE asked if this bill would raise the cost of cigarettes in Alaska since they are special manufacture.

MS. LICCTOLI replied that other states have found that their price doesn't go up.

CHAIR ELLIS asked if "self-extinguishing" was an accurate way to characterize these cigarettes.

MS. LICCTOLI replied that another name used is reduced cigarette propensity (RCP), which means they tend not to burn when left unattended.

SENATOR OLSON said he has also heard them called fire-safe cigarettes. The Coalition for Fire Safe Cigarettes has a comparison of the ones proposed in this legislation to regular cigarettes.

SENATOR STEVENS asked if this had worked in other states.

SENATOR OLSON replied that those facts exist, but he would let the fire marshal present them.

CHAIR ELLIS noted that people can testify on either version.

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STEVE "RUSTY" BELANGER, State Fire Marshal, Anchorage, supported SB 84. In reference to the fiscal note, he said that 254 different brands of cigarettes are recognized by the state of Alaska and the bill requires the manufacturer of each cigarette to pay a \$250 fee, which comes to about \$263,000.

MR. BELANGER said because the legislation is so recent in several other states the statistics were being tabulated as they spoke. However, New York is seeing good results.

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SENATOR BUNDE said it sounded like the fiscal note would be positive, but he wanted to know how much the testing would cost the fire marshal and he thought the DOR might want to have a fiscal note regarding bootlegging.

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DOUG SCHRAGE, Anchorage fireman, said that cigarettes are the major cause of structural fires, both fatal and non-fatal. Frequently it's not the smoker who gets killed or injured, but rather innocent children.

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WARREN CUMMINGS, Alaska Fire Chiefs Association, Fairbanks, said he preferred the term "self-extinguishing cigarettes" instead of the "Coalition for Fire-safe Cigarettes." He said this legislation is about saving lives and cigarettes are the leading cause of home fire fatalities in the United States - killing 700 to 900 people, smokers and non-smokers alike per year. In 2003, smoking material structure fires killed 760 people and injured

1,520 others in the US; in Alaska 5 people died. One-quarter of the victims of smoking material fire fatalities are not the smokers whose cigarette started the fire, 34 percent are their children, 25 percent are neighbors or friends, 14 percent are the spouses or partners and 13 percent are the parents.

Research from the mid-1980s predicted that fire-safe cigarettes would eliminate 3 out of 4 cigarette fire-related deaths. Research from New York shows that fatalities declined by one-third in not quite a half-year.

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MR. CUMMINGS said this bill also has penalties for selling non-self-extinguishing cigarettes, which are pretty substantial. So, he reasoned there would be added revenue to the state if regular cigarettes get bootlegged. He closed saying the Alaska Fire Chiefs support the committee substitute for this bill.

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SENATOR BUNDE said he heard that unattended cooking was the leading cause of housing fire fatalities.

MR. CUMMINGS responded that there are more cooking fires, but they don't result in fatalities.

CHAIR ELLIS said he hoped the Department of Revenue could answer Senator Bunde's question about fiscal notes.

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JOANNA BALES, Excise Audit Manager, Department of Revenue (DOR), said she is the program manager of the state cigarette tax and asked if the CS removes the DOR from the bill.

MS. LICCTOLI replied that it removes the department from the tobacco tax section, but it does not remove the Department of Revenue from the bill.

CHAIR ELLIS said he would hold the bill in committee.

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SENATOR BUNDE said he was concerned about bootlegging of regular cigarettes to avoid the tax and asked if this would cause the DOR additional challenges.

MS. BALES replied that under this bill, the department would be trading one job for another. Currently a directory of cigarettes that are approved for sale in the state is maintained. Those

cigarettes have to meet all the state and federal requirements before they can be sold. So, this would be a new requirement that would be added to the other requirements for cigarettes. Experience has shown that people try to bring in cigarettes that aren't on the approved directory anyway - sometimes ordering them over the Internet. The department's challenges wouldn't be any different and its fiscal note wouldn't be either. She said it's important to have this kind of legislation and the majority of people who buy cigarettes buy the ones that come through legal channels.

She noted that the state of New York put out a preliminary report in 2005 about the fire-safe cigarettes it required to be sold since August of 2000. It talks about all the issues brought up in committee. It found that consumers don't want to smoke the old cigarettes versus the fire-safe ones.

SENATOR BUNDE asked if the packets would be stamped like the current tax stamp and he asked who would stamp them.

MS. BALES replied that the packets would still come through a distributor who would stamp them. This bill requires all retailers in the state to get pictures of what the packaging will look like so they know they are stamping product that is in compliance with the law.

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RAY BIZAL, Western Regional Manager, National Fire Protection Association (NFPA), supported SB 84. He said that six states - New York, Massachusetts, Vermont, New Hampshire, Illinois and California - have already passed similar laws. One quarter of the U.S. population is protected by this law and as is the entire nation of Canada. Statistics are available for the first six months in New York and indicate that there has been no reduction in cigarette tax revenue as a result of the law and further the New York Office of Fire Prevention reports a one-third reduction in cigarette-related fire fatalities and an even higher reduction in the number of cigarette-related fires. He said 22 other legislatures are considering this issue this year.

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SENATOR STEVENS moved to adopt the CS to SB 84, version M. There were no objections and it was so ordered.

CHAIR ELLIS said he would hold the bill until Thursday.

SB 68-MOTOR VEHICLE INSURANCE

CHAIR ELLIS announced SB 68 to be up for consideration and that there was a new CS, version L.

SENATOR FRENCH, sponsor of SB 68, said he wanted to streamline the bill and make it more cost effective, but the fundamental goal of trying to reduce uninsured drivers remains. It allows for the Department of Motor Vehicles (DMV) to check at the time of registration to see if a vehicle is insured - a missing link right now. Another goal is to take uninsured cars off the road until insurance is purchased. It also seeks to increase the penalty for driving uninsured.

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ALLISON BIASTOCK, staff to Senator French, explained that the original bill had reporting deadlines for insurance companies directly to the DMV. The CS leaves the implementation of that program to the executive branch. "We believe the department will work with all the parties involved and the industry to come up with a method that works for everybody." Additionally the CS requires proof of insurance at the time of registration and renewal. The CS keeps the provision on impoundment of the vehicle if it's not insured.

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MS. BIASTOCK went through the bill section by section. The first section requires the motor vehicle liability insurers to provide information to the commissioner of the DMV. Section 2 allows municipalities to impound vehicles for failure to have mandatory insurance. Section 3 requires proof of mandatory insurance when a person applies for vehicle registration [a new section]. Section 4 requires proof of insurance when renewing a vehicle registration every two years.

She said the difference between this CS and the last version is that in the prior bill, the DMV would get information from the created database. It would compare that list to the list of insured vehicles to discover who wasn't insured. The department would then send out letters to the uninsured vehicle owners requiring them to comply with the insurance laws within 30 days. However, the DMV pointed out that would be a very difficult task. So that portion has been removed. Now the verification of insurance is going to happen at points of contact - registration, renewal of registration and if you were going to be pulled over and have your plates run for one reason or another.

SENATOR BUNDE noted that renewal can be done by mail.

MS. BIASTOCK agreed and added that it can be done over the Internet or at an organization like Jiffy Lube, as well. That's where the electronic verification comes in to play.

SENATOR BUNDE asked if the DMV would need access to the insurance companies' database to verify that a person has vehicle insurance.

MS. BIASTOCK replied that was the major change.

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CHAIR ELLIS began taking public testimony.

DUANE BANNOCK, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), informed them that the department had reviewed the CS. He explained the way the division verifies insurance today is by someone certifying that he has insurance when he signs the application for registration or its renewal. Often the division is lead to believe people have insurance when in fact they don't. This proposal will allow them to have electronic access to every insurance company that is authorized to do business in Alaska for online verification that a policy is in place. He didn't use the word "database" because he is not considering warehousing all the insurance policies, but rather just creating a conduit to access that information from the insurance companies.

He said that two things will happen as a result of this bill. One is that staff will get a better grip of when a vehicle does not have insurance and they will be able to say no to the registration. Second, they will spend less time with the current labor-intensive process of attempting to verify an insurance policy.

Regarding Senator Bunde's question about registering by mail, he stated when the information is entered into the computer is when the electronic signal will be sent to the insurance company for verification. With a positive match, the transaction will continue to be processed and the registration will be received in the mail three to four days later. If they are unable to electronically verify an insurance policy, then the process would come to a "screeching halt."

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SENATOR BUNDE asked if it would be correct to assume if he bought a used car today, got insurance and registered it, that he could cancel the insurance tomorrow - the same as with the mail-in renewal.

MR. BANNOCK replied, "That is an accurate assessment." It is his professional opinion that the majority of those scofflaws probably did not have insurance, but rather told the division they did.

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SENATOR BUNDE commented that this law would result in scofflaws having insurance for two weeks longer than they do now. He asked if he bought a new car and the insurance company provided a binder so he could drive off the lot, would that get put into the insurance database so the registration process could continue.

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MR. BANNOCK replied that in his opinion, when car dealership processes the transaction, it's not done for several days until the actual transaction is recorded into his name. But he also thought the insurance company would update its records immediately.

He related that the Alaska DMV intends to model its business practices after a couple of states that have created a work-around for that scenario - even if he hadn't yet contacted his insurance company to add the new vehicle. If he had a verifiable policy in force, the DMV would continue to honor it in that instance.

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SENATOR BUNDE asked what the experience has been in other states.

MS. BIASTOCK added that this process is relatively new. California started contacting drivers without insurance within the year. Texas and Florida have an on-line verification system. Other states have programs in place that take a sampling of vehicles and run a check on those and notify the driver if he isn't insured.

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SENATOR STEVENS commented that this sounds like it has the potential to be more user-friendly to the general public and asked if consumers would need to carry proof of insurance cards

in their automobiles if the department has immediate access to insurance information.

MR. BANNOCK opined that he didn't think the coupons should be done away with. They facilitate getting information at an accident.

SENATOR STEVENS didn't agree. He thought this was an opportunity to be more user-friendly to the public and allow them to not have to carry a coupon.

KENTON BRINE, Northwest Regional Manager, Property Casualty Insurers Association of America, said his company represents roughly 40 percent of the auto insurance market place across the United States. He had a number of concerns with the original bill, mostly with the effectiveness and cost of using database programs to identify uninsured motorists and he still held that opinion about the CS.

He repeated that these programs are in place in various shapes in some other states, but their effectiveness shows mixed results. A study from the Motor Vehicle Administrators of America on statistics from 1989 to 1999 gathered by the Insurance Research Council showed that of the 18 states with reporting programs in place for five years or more, 12 showed an increase in uninsured motorists, while only 6 experienced improvement. He supposed that some of that has to do with how successes or failures are reported, the accuracy of the reported data and difficulty in tracking VIN numbers.

With regards to the CS, he said that while the amendment was well-intended that a program could be worked out, he was not aware of a state using a live link to verify insurance coverage. He said insurers have been interested in the reverse situation where they have on-line access in real time to motor vehicle driver abstracts for rating purposes. So he thought that could be provided in reverse, but he didn't want to say for sure it could be done. He was a little troubled with language that says trust us and we'll work the details out later. He was opposed to this bill, but offered to work with the department to structure language to clarify what kind of program it intends to develop.

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SENATOR BUNDE asked if he said other states had not had enough experience with these kinds of programs to get an actuarial feeling for how this might impact insurance rates.

MR. BRINE replied that start up costs for these programs have run from \$1 million to \$5 million. The programs from state to state aren't consistent with each other and neither is their reporting system to their legislature. "The improvement is always temporary at best as people figure out a way around it."

SENATOR BUNDE asked if the fiscal note would be passed on to the customers.

MR. BRINE answered that he thought companies would pass the cost on to the customer.

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CHAIR ELLIS asked if others had comments or rebuttal to his testimony.

MR. BANNOCK commented that he was very familiar with Mr. Brine's comments, including the department's ability to get good quality real time information back to insurance companies, an issue that is on its short-range project list. As to the concept of mandatory insurance, that is the law in Alaska and this bill doesn't address whether that is good or bad public policy. Finally, he said this law replaces a paper-driven certify-driven process policy with an electronic process. Clearly, however, some people will continue to manipulate the system.

MS. BIASTOCK concluded saying this bill tried to update with the use of technology.

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LINDA HALL, Director, Division of Insurance, had Sarah McNair-Grove, Division Actuary, with her. She said she had not taken a position on this bill because it did not affect her division. She worked with Senator French regarding not duplicating things insurance companies have to do.

MS. GROVE declined to comment.

SENATOR BUNDE noted that she has always said that Alaska has a small pool of insurers and he was concerned that putting an added burden on them might help them decide to not write here at all.

MS. HALL said that is her concern. One of her goals has always been to walk the fine line between insurance protection for consumers and having choices for insurance.

CHAIR ELLIS recapped that he didn't want to adopt the CS right now. He might want another one drafted that would include more changes.

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SENATOR BUNDE asked if the committee could get input from automobile dealerships as to how they would fit in with this mix.

CHAIR ELLIS agreed and announced that SB 68 would be held. There being no further business to come before the committee, he adjourned the meeting at 2:43:45 PM.