

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 20, 2007

9:01 a.m.

MEMBERS PRESENT

Senator Lesil McGuire, Chair
Senator Gary Stevens, Vice Chair
Senator Hollis French
Senator Lyda Green
Senator Con Bunde

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CONFIRMATION HEARING: Lieutenant Governor Designee
Talis Colberg
CONFIRMATION ADVANCED

SENATE BILL NO. 92

"An Act relating to ignition interlock requirements; relating to limited driver's license privileges for persons convicted of driving while under the influence of an alcoholic beverage, inhalant, or controlled substance and requiring certain persons to utilize ignition interlock devices to qualify for a limited driver's license; relating to probation for driving while under the influence of an alcoholic beverage, inhalant, or controlled substance, and refusal to submit to a chemical test; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 115

"An Act relating to gift certificates and gift cards, and to unclaimed property; and making a violation of certain gift card prohibitions an unlawful trade practice."

HEARD AND HELD

HOUSE CONCURRENT RESOLUTION NO. 3

Relating to proclaiming April of 2007 as Sexual Assault Awareness Month.

MOVED HCR 3 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 92

SHORT TITLE: LIMITED LICENSE IGNITION INTERLOCK

SPONSOR(S): SENATOR(S) FRENCH

02/21/07 (S) READ THE FIRST TIME - REFERRALS
02/21/07 (S) STA, JUD, FIN
03/13/07 (S) STA AT 9:00 AM BELTZ 211
03/13/07 (S) Heard & Held
03/13/07 (S) MINUTE(STA)
03/20/07 (S) STA AT 9:00 AM BELTZ 211

BILL: SB 115

SHORT TITLE: GIFT CARDS

SPONSOR(S): STATE AFFAIRS

03/12/07 (S) READ THE FIRST TIME - REFERRALS
03/12/07 (S) STA, L&C
03/20/07 (S) STA AT 9:00 AM BELTZ 211

BILL: HCR 3

SHORT TITLE: SEXUAL ASSAULT AWARENESS MONTH

SPONSOR(S): REPRESENTATIVE(S) MEYER

02/12/07 (H) READ THE FIRST TIME - REFERRALS
02/12/07 (H) HES
02/27/07 (H) HES AT 3:00 PM CAPITOL 106
02/27/07 (H) Moved Out of Committee
02/27/07 (H) MINUTE(HES)
02/28/07 (H) HES RPT 7DP
02/28/07 (H) DP: CISSNA, NEUMAN, FAIRCLOUGH,
GARDNER, SEATON, ROSES, WILSON
03/01/07 (H) TRANSMITTED TO (S)
03/01/07 (H) VERSION: HCR 3
03/02/07 (S) READ THE FIRST TIME - REFERRALS
03/02/07 (S) STA
03/20/07 (S) STA AT 9:00 AM BELTZ 211

WITNESS REGISTER

TALIS COLBERG, Designee

Lieutenant Governor Designee and Attorney General
Palmer, Alaska

POSITION STATEMENT: Spoke to his nomination as Lieutenant
Governor Designee.

DOUG WOOLIVER, Administrative Attorney

Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding SB 92.

RODNEY DIAL, Lieutenant
Alaska State Troopers
Ketchikan, Alaska

POSITION STATEMENT: Answered questions regarding SB 92.

MARIT CARLSON VAN DORT, Staff
to Senator Lesil McGuire
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 115 on behalf of Senator McGuire, Sponsor.

RACHEL LEWIS
Unclaimed Property
Department of Revenue
Juneau, Alaska

POSITION STATEMENT: Explained state unclaimed property process.

HEATH HILYARD, Staff
to Representative Carl Gatto
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions regarding SB 115.

SUZANNE CUNNINGHAM, Staff
to Representative Kevin Meyer
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HCR 3 on behalf of Representative Meyer, Sponsor.

CHRIS ASHENBRENNER, Interim Program Administrator
Council on Domestic Violence and Sexual Assault
Juneau, Alaska

POSITION STATEMENT: Spoke in favor of HCR 3.

ACTION NARRATIVE

CHAIR LESIL MCGUIRE called the Senate State Affairs Committee meeting to order at [9:01:17 AM](#). Senators Green, French, Bunde, Stevens and McGuire were present at the call to order.

Confirmation Hearing: Talis Colberg, Lieutenant Governor Designee

CHAIR MCGUIRE announced the consideration of Talis Colberg as Lieutenant Governor Designee.

TALIS COLBERG, Lieutenant Governor Designee, said he doesn't plan to fill the role, but if necessary he could uphold the duties of the lieutenant governor including reviewing citizen initiatives and referendum, gaveling the legislature into session, filing state regulations, commissioning notaries, heading the historical commission, and serving as a zealous custodian of the state seal.

[9:03:29 AM](#)

SENATOR BUNDE asked about Alaska electing its attorney general.

MR. COLBERG said six months ago that sounded reasonable to him, because anything that breaks up the concentration of power serves the people. But there are downsides to having elected attorney generals. It sets up an opposition to legislative and gubernatorial agendas that could work to the detriment of the people if used for political purposes. There would an agenda that formed in the course of the campaign, and that could drive staffing decisions on a political basis. But either way works, he said. The governor's choice of successor to the lieutenant governor does not have to be the attorney general, he explained.

SENATOR BUNDE said he tends to oppose an election for the attorney general. He suggested exploring the federal model for succession to the governorship.

MR. COLBERG said he encountered some surprise from people when they learned that the governor could pick the* successor.

SENATOR BUNDE admitted that he didn't know that.

[9:06:57 AM](#)

CHAIR MCGUIRE moved to forward the name of Talis Colberg as lieutenant governor designee to a joint session for consideration. Hearing no objections, it was so ordered.

The committee took an at-ease from [9:07:51 AM](#) from [9:09:27 AM](#).

SB 92-LIMITED LICENSE IGNITION INTERLOCK

CHAIR MCGUIRE announced the consideration of SB 92.

SENATOR FRENCH said the rural exemption in SB 92 was discussed at the last hearing. The bill allows the department to list areas in the state where the ignition interlock will not be required. The interlock providers are willing to go to remote villages if three or four offenders need the device. He created a list of where the DUIs [driving under the influence] occur. Many places in the state have one or two DUIs per annum. He gave the examples of Nondalton, Noorvik, Nulato, and others that only had one DUI per year. The requirement of the interlock in those areas would serve as a de facto disqualification of a person's ability to drive during probation. He said it strikes him as unfair. The bill is a balanced approach, and the department can be trusted to apply it in a firm but evenhanded way, he stated.

[9:11:50 AM](#)

SENATOR BUNDE asked about "rug" courts.

DOUG WOOLIVER, Administrative Attorney, Alaska Court System, said he ran conviction data on various locations. "Rug court" stands for "rural user group" in the old computer system.

SENATOR BUNDE said that no matter how small a community is, every person deserves the same protection by the interlock device as those who live in Anchorage. He asked Mr. Wooliver about the list of DUI convictions in various communities.

MR. WOOLIVER said those are the convictions for 2006.

[9:13:45 AM](#)

SENATOR BUNDE noted that Craig, Wrangell, Dillingham, Bethel and Unalaska have a substantial number of convictions, and perhaps the goal could be achieved with a population cutoff.

MR. WOOLIVER said some convictions in Bethel would include the surrounding communities that have no courts. Only the communities with courts are counted, so some of those convictions would include the surrounding villages.

SENATOR BUNDE noted there is still a substantial number, and those citizens of Bethel should have the same protection as Anchorage citizens. He said he didn't have the magic number. He understands that in places with small populations someone may have to wait three years to have another DUI in the area in order to get a device. But certainly in places the size of Kotzebue or Dillingham, the citizens should have the same protection, he stated.

[9:15:50 AM](#)

SENATOR FRENCH said he agrees, especially with those examples. It is the tiny little places, "that it just seems to be out of reach." Regarding a population cutoff, "we wouldn't want to eliminate tiny towns that are on the road system—Coldfoot, Paxton, places like that."

SENATOR GREEN asked about the new language on line 9 of page 1 regarding municipalities.

SENATOR FRENCH said the idea is to get every municipality in line so that when each enforces its DUI laws, the requirement is not circumvented. A lot of DUI prosecution in Anchorage goes through the municipal prosecutor's office and not through state law. It is for uniformity, he said.

[9:18:49 AM](#)

CHAIR MCGUIRE said she would like to see where the department ultimately decides to allow exemptions.

SENATOR FRENCH said perhaps the department can provide a draft of that list as the bill moves along.

[9:19:38 AM](#)

SENATOR BUNDE said he had offered a conceptual amendment. He withdrew it and moved conceptual Amendment 2. He is concerned about a lack of direction to the people who administer the exemption. Amendment 2 requires the department to base the exemption on off-the-road population size and volume of DUIs.

SENATOR FRENCH said perhaps a conceptual amendment could be firmed up in the next committee, and it can include the volume of DUIs, population size, and proximity to a larger population on a road system. He said he wouldn't want to exempt Paxton, but a larger, totally isolated community may have to be exempt.

CHAIR MCGUIRE asked Senator Bunde if he wanted to offer the amendment.

The committee took an at-ease from [9:22:08 AM](#) to [9:22:39 AM](#).

SENATOR STEVENS said this is not necessarily a violation with a geographical limit because a villager may drive in Anchorage.

SENATOR FRENCH also noted that a villager who is arrested in Anchorage may go back to the village.

[9:24:18 AM](#)

CHAIR MCGUIRE asked for assistance with the conceptual amendment and how to determine the availability of the device.

RODNEY DIAL, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS), said there would be a higher percentage of DUI convictions in the small, remote communities that are the result of a serious injury from a snow machine or car because these communities have little, if any, traffic enforcement. That might play a part in safety concerns, he said, although snow machines can't use the device. Any community connected to the road system should not be exempt, he opined.

[9:26:16 AM](#)

CHAIR MCGUIRE said if the bill were left alone, the department would make the determination. She asked about population size and the volume of DUIs.

MR. DIAL said the volume of DUIs seems reasonable. Many of the communities are exempt from insurance requirements, and perhaps the same criteria could be used for device exemptions.

SENATOR FRENCH said he will work on the bill.

SENATOR BUNDE said he will withdraw the amendment while Senator French solidifies the language. If someone was involved in a DUI that involved a serious injury, that may be another factor to take into consideration. The device won't go on a snow machine, but a person could still lose a drivers license, he suggested.

CHAIR MCGUIRE told Senator French that he can bring the change in the form of a committee substitute.

She announced she would set SB 92 aside until the Thursday meeting.

SB 115-GIFT CARDS

[9:29:38 AM](#)

CHAIR MCGUIRE announced the consideration of SB 115.

MARIT CARLSON VAN DORT, Staff to Senator Lesil McGuire, said SB 115 is the response to a dramatic increase in consumer demand for convenient gift options and consumer frustration with hidden fees and restrictions. Several states have addressed the issue by limiting expiration dates and fees. The bill includes

electronic gift cards, similar to debit cards, as well as the more traditional gift certificates issued by businesses. SB 115 will ensure that gift cards will retain their full value in perpetuity and will not be subject to expiration dates, dormancy fees, service fees or anything that will reduce their total redemption value. Exclusions include awards or promotion programs; donations; bank-issued gift cards; or cards that can be used at multiple locations. Cards that remain unclaimed by the owner for more than three years are presumed abandoned and will be subject to reporting to the state as unclaimed property.

[9:31:49 AM](#)

SENATOR BUNDE asked about the business perspective. He spoke of a certificate for a discount of any purchase over \$50, but it had a time limit.

CHAIR MCGUIRE said awards and promotions are specifically exempted. The bill refers to gift cards, and she gave an example of giving someone a gift card from Borders Books, and the receiver would not have to rush out and use the gift card at the risk of losing the value of the card. The consumer complaint is that some gift cards lose value over time, "so the three years seems to be kind of a reasonable time period."

SENATOR STEVENS asked for statistics on unclaimed gifts because he heard there are enormous amounts of money that merchants get the benefit of. It is a great benefit to the merchant to sell a gift card that no one ever uses, he surmised.

[9:34:33 AM](#)

RACHEL LEWIS, Administrator, Unclaimed Property, Department of Revenue, said nationally \$58 billion worth of gift cards were sold last year, and it is estimated that \$8 billion will not be redeemed. Some businesses are reporting that as unclaimed property and some roll it into income. This bill will identify that that money belongs to the consumers who purchased those cards. It is continuing to grow every year, she stated.

SENATOR BUNDE asked for Alaska statistics.

MS. LEWIS said about \$58,000 have been reported to the state. Use of gift cards is pretty new in the last five years, but it is snowballing. She noted that a lot of companies in Alaska are setting up their books to monitor gift cards. Alaskans use a lot of gift cards, she added.

[9:36:24 AM](#)

SENATOR BUNDE asked if the \$58,000 was unclaimed.

MS. LEWIS said that is what has been turned over to the state.

SENATOR STEVENS asked what happens to the property and if the state can use a Barnes and Noble gift card, for example.

[9:36:57 AM](#)

MS. LEWIS said since 1986 Alaska has had about \$88 million worth of unclaimed property, including payroll checks, insurance reimbursements, old bank accounts, stocks, mutual funds, dividends and re-investment plans. About \$23 million has been returned to the owners. What is not claimed is put in the general fund and used for all Alaskans, adding up to about \$58 million since 1986. The state is usually transferring \$3 million to \$9 million each year as companies update their books.

SENATOR STEVENS asked about the process for a gift certificate that a person doesn't claim.

MS. LEWIS said every year companies review their books for any outstanding liability. After the three-year dormancy period they would file an unclaimed property report with the state if the last known address of the recipient is in the state, otherwise it will go the state where the business is incorporated.

[9:39:10 AM](#)

SENATOR FRENCH said Section 4 makes a card valuable in perpetuity, but after three years an unclaimed card is presumed abandoned.

MS. LEWIS explained that the card is good in perpetuity with the state. The business removes it from its liability account after three years, but the card is still good if it has been reported to the state, "and you can claim your money through the State of Alaska unclaimed property office."

SENATOR FRENCH said his family forgets to use them. He asked what happens if a merchant tells him his card is expired. "How would I then know that I can get my money back from the state? Would they have to tell me?" He asked, "If they won't honor it, how do I figure out that it's actually good in perpetuity?"

[9:40:57 AM](#)

MS. LEWIS said some details will be on the card. A business will need to honor the card or refer you to whatever state it has turned the money over to.

CHAIR MCGUIRE said a lot of consumers have complained about this. Alaska has many folks who buy gift cards, which may be geographical or because Alaskans are lazy. People become disappointed when the gift card loses value. A gift card is money into the businesses coffers just like buying a jacket. "What you're seeing companies do is, kind of, come back and double dip." This is a consumer protection bill, and it is not unfair to a business. The business has received the benefit of that purchase, she stated.

[9:43:12 AM](#)

HEATH HILYARD, Staff to Representative Carl Gatto, Alaska State Legislature, said the original version had an expiration period of seven years, which is what Massachusetts does, and then it was changed to "in perpetuity" to maximize consumer protection. The gift card will forever hold its value. After three years it is considered abandoned but it is up to the retailer on how to handle it. Representative Ramras said the gift cards for his business always retain their value, so as a business owner he has no problem. Once it is reported as unclaimed, then the business can honor it and report that back to the state, or the business can send the customer to the unclaimed property division to recover the value of the card.

[9:45:37 AM](#)

MR. HILYARD spoke of the lingering balance on a business's books. Many retailers do continue to value the gift cards. The intent was to get at the "open universe cards" that are now specifically exempted. These cards open a temporary bank account, like at Key Bank or Wells Fargo, for example, but those are regulated by federal laws, so the bill cannot regulate the main offenders that the sponsor really wanted to address. But in his investigations he found that there are larger retailers in the state that "still are kind of abusive."

CHAIR MCGUIRE said the committee can set the termination point anywhere, including seven years or in perpetuity. Most states are dealing with this somehow, she said. The goal was to think about the maximum value to the consumer with respect to the limitations of federal laws.

[9:47:53 AM](#)

SENATOR FRENCH said the bill says the card is valuable forever, but when the consumer tries to use an abandoned card, the consumer may be set up to be disappointed.

[9:48:49 AM](#)

MR. HILYARD said, "If you made the expiration period the same as the unclaimed property, then that would negate the need for unclaimed property in these devices."

CHAIR MCGUIRE discussed four options: making the deadline commensurate with the unclaimed property statute—three years; eliminating it so it would be the same; using the Massachusetts model of seven years; or having it retain value in perpetuity. She agreed it might cause consumer confusion.

SENATOR BUNDE said when he buys a jacket he is not charged an activation fee and he is not charged if he doesn't use his jacket. "So there is some double dipping in there." He endorses that aspect, but questions the practicality. He asked how much paperwork is generated for a person requesting the remaining value on a gift card. He asked if the state can use that money prior to a person reclaiming it. "Does your division make money or does it cost money" he asked.

[9:51:05 AM](#)

MS. LEWIS said processing claims is automated, and gift cards are a very small portion of them. There is an online system, "so I do not think it would cost the state very much money."

CHAIR MCGUIRE said she thinks the state is making money: "\$58 million since 1986?"

SENATOR BUNDE asked if any companies have complained about the proposed legislation, particularly the double dippers.

CHAIR MCGUIRE said no one has. Merchants can choose to sell gift cards if it generates income. She suggested making the terms clear. She thinks merchants will choose to keep the gift card system because of its popularity. "And I still think they'll get the benefit of having those customers come in."

SENATOR BUNDE said the business gets the money upfront and can make use of the money. He surmised that businesses expect that a certain percentage of cards will never be redeemed.

CHAIR MCGUIRE said it is a clever business, but it is also convenient for the lazy shoppers.

[9:53:39 AM](#)

SENATOR GREEN said she bought gift cards for the kids and paid an upfront fee. She asked if that would be addressed.

CHAIR MCGUIRE said that would not be allowed.

SENATOR GREEN asked about removing the term "certificate" from the bill and if it is addressed somewhere else.

MS. VAN DORT said it was intended to be removed, and she thought it was defined somewhere. She read: and gift certificates are included under the definition of gift cards.

CHAIR MCGUIRE noted page 3, lines 29-31, where it said a device that is usable up to its face amount. "So we're changing the definition and including it, so it's all encompassing."

[9:55:17 AM](#)

SENATOR GREEN said it is confusing.

MR. HILYARD said, "Our version opted for 'gift card' and...we went for a more generic term that broadly includes gift certificate as it currently exists, but now we also include gift card, because it is a specific type of device."

SENATOR FRENCH said he shares Senator Green's concern. A gift card is plastic and certificates are paper. He questioned if a consumer would realize they are both under the same rules. The title mentions both, and it would be clearer if both were referred to throughout the bill.

[9:56:53 AM](#)

CHAIR MCGUIRE said she will ask the drafter about it. A consumer likely sees the distinction between a certificate and a card, she surmised. She said she would hold SB 115 over until Thursday.

HCR 3-SEXUAL ASSAULT AWARENESS MONTH

CHAIR MCGUIRE announced the consideration of HCR 3.

SUZANNE CUNNINGHAM, Staff to Representative Kevin Meyer, sponsor of HCR 3, said this resolution proclaims April 2007 as Sexual Assault Awareness Month.

[9:58:34 AM](#)

MS. CUNNINGHAM said sexual assault is a difficult topic but given the status of this crime in Alaska, it deserves to be at the forefront. The resolution recognizes the need for greater awareness, prevention and education. By observing the month,

schools, state agencies, and individuals are encouraged to seek out or sponsor activities to increase public awareness. The sexual assault statistics provide a sobering reality. It is one of the most violent and underreported crimes in Alaska. Alaska's forcible rape rate is 2.5 times higher than the national average, and child sexual assault is six times higher. A 2006 opinion poll found that 75 percent of those polled have experienced or know someone who has experienced domestic violence or sexual assault. Over the past years the legislature has made laws tougher. There is a need to work with service providers and agencies to increase awareness and services for victims. She said HCR 3 seeks to support sexual assault survivors and their loved ones and advocate for increased public safety and victim rights.

10:00:25 AM

SENATOR BUNDE said the legislature worked on revisions to sexual assault laws last year, and a reporter called him and said the judicial council reported that the recidivism rate for sexual assault is way down. The unspoken question was why get so tough on sex crimes because of that. He said he rejected such logic because the crime is so underreported. He asked for comments.

MS. CUNNINGHAM said Representative Meyer has served on the board of Standing Together against Rape and has worked on this issue since becoming elected. She thinks he would say that one crime is enough. Interpersonal violence is devastating, she stated.

10:02:17 AM

CHRIS ASHENBRENNER, Interim Program Administrator, Council on Domestic Violence and Sexual Assault, said she hasn't read the aforementioned report but quoted Representative Fairclough's response. "Sex offenders get smarter after they're caught." She noted that the report only looked back four years. She recalled a conversation with a woman who was assaulted by her uncle. Reporting the crime disrupted her family, her aunt could no longer support herself because the man was sent to jail, and the whole village was mad at her. When the man returned and started offending her again, she never told. The resolution is the key to getting the statistics lowered. "We have to get out into those schools; we have to talk to the children; we have to talk to the communities to get to the point where when that child in that community tells that her uncle is raping her, there isn't a person in that community that doesn't censor that behavior." She said this resolution is part of the whole puzzle.

SENATOR STEVENS moved HCR 3 from committee with individual recommendations and attached fiscal note(s). Hearing no objection, it was so ordered.

CHAIR MCGUIRE adjourned the Senate State Affairs Committee meeting at [10:05:52 AM](#).