

**ALASKA STATE LEGISLATURE**  
**HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

February 23, 2010

3:08 p.m.

**MEMBERS PRESENT**

Representative Bob Herron, Co-Chair  
Representative Wes Keller, Co-Chair  
Representative Tammie Wilson, Vice Chair  
Representative Bob Lynn  
Representative Paul Seaton  
Representative Sharon Cissna  
Representative Lindsey Holmes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 188

"An Act relating to the taxation of moist snuff tobacco, and amending the definition of 'tobacco product' in provisions levying an excise tax on those products."

- HEARD & HELD

HOUSE BILL NO. 309

"An Act prohibiting health care insurers that provide dental care coverage from setting a minimum age for receiving dental care coverage, allowing those insurers to set a maximum age for receiving dental care coverage as a dependent, and prohibiting those insurers from setting fees that a dentist may charge for dental services not covered under the insurer's policy."

- HEARD & HELD

HOUSE BILL NO. 265

"An Act providing for a two-year funding cycle for medical assistance coverage for dentures."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 188

SHORT TITLE: TAX ON MOIST SNUFF

SPONSOR(s): REPRESENTATIVE(s) HERRON

03/12/09 (H) READ THE FIRST TIME - REFERRALS  
03/12/09 (H) HSS, L&C, FIN  
03/24/09 (H) HSS AT 3:00 PM CAPITOL 106  
03/24/09 (H) <Bill Hearing Rescheduled to 03/26/09>  
03/26/09 (H) HSS AT 3:00 PM CAPITOL 106  
03/26/09 (H) Heard & Held  
03/26/09 (H) MINUTE(HSS)  
04/09/09 (H) HSS AT 3:00 PM CAPITOL 106  
04/09/09 (H) Heard & Held  
04/09/09 (H) MINUTE(HSS)  
04/14/09 (H) HSS AT 3:00 PM CAPITOL 106  
04/14/09 (H) Heard & Held  
04/14/09 (H) MINUTE(HSS)  
02/23/10 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 309

SHORT TITLE: DENTAL CARE INSURANCE

SPONSOR(s): REPRESENTATIVE(s) THOMAS

01/19/10 (H) READ THE FIRST TIME - REFERRALS  
01/19/10 (H) HSS, FIN  
02/11/10 (H) HSS AT 3:00 PM CAPITOL 106  
02/11/10 (H) Scheduled But Not Heard  
02/23/10 (H) HSS AT 3:00 PM CAPITOL 106

BILL: HB 265

SHORT TITLE: MEDICAID COVERAGE FOR DENTURES

SPONSOR(s): REPRESENTATIVE(s) GARDNER, PETERSEN, GARA

01/08/10 (H) PREFILE RELEASED 1/8/10  
01/19/10 (H) READ THE FIRST TIME - REFERRALS  
01/19/10 (H) HSS, FIN  
02/11/10 (H) HSS AT 3:00 PM CAPITOL 106  
02/11/10 (H) Scheduled But Not Heard  
02/23/10 (H) HSS AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

ROB EARL, Staff  
to Representative Bob Herron  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained HB 188 on behalf of the prime sponsor of the bill, Representative Bob Herron.

EMILY NENON, Alaska State Director  
American Cancer Society Cancer Action Network (ACS CAN)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 188.

MARK SPRINGER, Director  
Delta Tobacco Control Alliance  
Bethel, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 188.

CARRIE NYSSSEN, Senior Director of Advocacy  
American Lung Association in Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 188.

MONTE WILLIAMS, Lobbyist  
US Smokeless Tobacco  
Richmond, Virginia

**POSITION STATEMENT:** Testified during discussion of HB 188.

JANIS HALES, Income and Excise Tax Specialist  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 188.

CECILE ELLIOTT, Staff  
for Representative Bill Thomas  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 309 on behalf of the prime sponsor, Representative Bill Thomas.

SHEILA TALLMAN  
Premera Blue Cross/Blue Shield of Alaska

**POSITION STATEMENT:** Testified during testimony of HB 309.

JOHN WOLLER, Dentist  
Alaska Dental Society  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 309.

MARK PRATOR, Dentist  
Alaska Dental Society  
Wasilla, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 309.

REPRESENTATIVE BERTA GARDNER  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced HB 265 as the prime sponsor of the bill.

#### **ACTION NARRATIVE**

[3:08:41 PM](#)

**CO-CHAIR WES KELLER** called the House Health and Social Services Standing Committee meeting to order at 3:08 p.m. Representatives Keller, Herron, T. Wilson, Holmes, and Seaton were present at the call to order. Representatives Cissna and Lynn arrived as the meeting was in progress.

#### **HB 188-TAX ON MOIST SNUFF**

CO-CHAIR KELLER announced that the first order of business would be HOUSE BILL NO. 188, "An Act relating to the taxation of moist snuff tobacco, and amending the definition of 'tobacco product' in provisions levying an excise tax on those products." [In front of the committee was CSHB 188, Version 26-LS0714\N, Bullock, 4/09/09 which was adopted as the working draft on 4/14/09.]

[3:09:00 PM](#)

CO-CHAIR HERRON explained that HB 188 was a disincentive for the use of snuff products.

[3:10:15 PM](#)

ROB EARL, Staff to Representative Bob Herron, Alaska State Legislature, paraphrased the sponsor statement, which read [original punctuation provided]:

Currently in state law, cigarettes are taxed at 10 cents per cigarette (\$2 a pack) and all other tobacco products (OTP) are taxed *ad valorem* at 75% of their wholesale price. Moist snuff tobacco (more commonly called "dipping tobacco") presently falls under the OTP tax regime.

HB 188 distinguishes between two types of moist snuff tobacco (MST): spitless MST and all other MST. The former are light-weight products that come in teabag-like pouches and obviate the need for expectoration. HB 188 taxes these dangerous new light-weight products that are being targeted towards youth at 100% *ad valorem*. All other MST will be taxed on a weight-based system of \$1.88 per ounce. All other OTPs remain taxed at an *ad valorem* rate of 75%.

Taxing MST (excluding spitless MST) at a \$1.88 per ounce is designed to reduce the price disparity between discount and premium MST products. \$1.88 per ounce is currently roughly equal to what the premium brands pay under the *ad valorem* system. The tax on discount brands will increase dramatically - the tax on premium brands will remain about the same; however, if the wholesale prices on these premium products increase over time (inflation), then the tax would not rise commensurately since it is by weight. The bill does include a sunset provision, whereby the \$1.88 per ounce tax on non-spitless MST products, barring further legislative action, would revert back to a 75% *ad valorem* rate after 3 years.

There is a nation-wide movement afoot to move to weight-based taxation systems for smokeless products (15 states currently use such a method, with 13 of those having changed to weight-based in the last 9 years).

This new taxation system will produce additional state revenue, by raising the taxes paid by discount MST brands. The Dept. of Revenue has estimated tax revenue would increase by \$1.1 million, although that's assuming the same amount of product is purchased as before the tax increase. Also, some popular MST companies lowered prices recently, having the net effect that this bill might result in as much as \$1.8 million in additional revenue.

According to the American Lung Association, "Increasing excise taxes on tobacco products is a proven way to reduce use, particularly among kids."

This bill also increases funding for the education and cessation fund by sending 25% of the annual tax

revenue collected on MST to this fund, which may be used for tobacco education and cessation programs.

Currently, if you order cigarettes for personal use over the Internet, you must pay state taxes on those purchases. But in current state law, you do not have to pay taxes on any OTP products imported for personal use. This bill closes that loophole.

The bill also requires that cigars be sold in packages of at least five; that loose tobacco be sold in packages weighing at least one ounce; and that single dose units be sold in the original manufacturer's packaging.

The committee took an at-ease from 3:13 p.m. to 3:14 p.m.

[3:14:15 PM](#)

MR. EARL, referring to the Tax Table [Included in the committee packets.], noted that the first column, titled Tobacco Product, would, under current law, only have two products listed, Cigarettes and Other Tobacco Products (OTP). He pointed out that HB 188 would split the OTP into three categories: Moist Snuff (except Spitless), Spitless Moist Snuff, and Everything Else. He compared the current taxation for each of these to the current proposed tax under HB 188, and he explained each change.

[3:16:01 PM](#)

MR. EARL directed attention to the Tax Per Dose Calculation Sheet, also on the Tax Table. He reported that cigarettes were taxed at 10 cents per dose. He compared the different rates of proposed taxes for both Spitless Moist Snuff and Moist Snuff Dipping Tobacco.

[3:18:01 PM](#)

REPRESENTATIVE T. WILSON asked to list the OTPs.

[3:18:20 PM](#)

MR. EARL, referring to page 5 and page 6 of HB 188, listed cigar, cheroot, and perique.

[3:19:01 PM](#)

CO-CHAIR KELLER opened public testimony.

[3:19:13 PM](#)

EMILY NENON, Alaska State Director, American Cancer Society Cancer Action Network (ACS CAN), said that ACS CAN supported the intent and the effort for HB 188. She reported that chewing tobacco was a huge problem in Alaska, specifically in the Yukon-Kuskokwim (Y-K) Delta region. She reported that the rate for use of chewing tobacco among pregnant women was higher than anywhere in the world. She stated that ACS CAN did not support a weight based tax. She pointed out that tobacco marketing was focused toward kids, as adults did not start using tobacco products. She offered some examples of chewing tobacco, noting that it was "berry blend," and some examples of others that were "citrus blend." She passed around some cigars, declaring the similarity to "scented magic markers." She referred to Camel Snus, noted that it had a spearmint bubblegum smell, and pointed out that it was very lightweight and would be under taxed with a weight based tax. She declared that the most equitable decision would be for whichever tax was greater, ad valorem or weight based. She expressed support for an increase to the ad valorem tax. She declared that ACS CAN did not support a straight weight based tax, but would be open to other tax options.

[3:24:10 PM](#)

REPRESENTATIVE T. WILSON asked Ms. Nenon for a suggested tax solution.

[3:24:30 PM](#)

MS. NENON explained that the automatic escalator for the percentage of wholesale price allowed the tax to increase with the price. She stated that the wholesale price for chewing tobacco was higher for premium brands than for bargain brands and reflected that the weight based tax would equalize these. She stated that more marketing dollars were used by the tobacco companies for the premium brands, and these were the most popular brands with kids. She expressed the importance for maintaining a high tax on the premium brands.

[3:25:51 PM](#)

REPRESENTATIVE T. WILSON asked for statistics on sales popularity.

[3:26:04 PM](#)

MS. NENON replied that she would supply those statistics.

[3:26:49 PM](#)

MARK SPRINGER, Director, Delta Tobacco Control Alliance, stated that tobacco had an "extraordinary public health impact." He declared support for HB 188, and agreed with the American Cancer Society comments. He stated that the tobacco industry was marketing nicotine as an addictive chemical that was safe for unlimited use. He declared that the tobacco industry made no attempt to discourage its use. He suggested that the tax be used as a disincentive to potential consumers for tobacco use and to discourage behaviors that had a negative cost to society.

[3:30:54 PM](#)

MR. SPRINGER, in response to Representative Seaton, said that these tobacco products were designed as a gateway to use, and that the tobacco industry was not interested in occasional users, but was marketing for a long term customer base.

[3:32:09 PM](#)

REPRESENTATIVE T. WILSON asked if the tax would stop underage use of tobacco products.

[3:32:21 PM](#)

MR. SPRINGER offered his belief that it would. He stated that the current tobacco products were easier to use and easier to procure.

[3:33:11 PM](#)

REPRESENTATIVE T. WILSON opined that this was an enforcement issue.

[3:33:30 PM](#)

MR. SPRINGER replied that it was more difficult to stop the use of chew than to enforce non-smoking. He announced that the disincentive was to increase the cost, as a young person had a limited amount of discretionary money.

[3:35:05 PM](#)

CARRIE NYSSSEN, Senior Director of Advocacy, American Lung Association in Alaska, expressed appreciation for the intent of HB 188 as a disincentive for youth to use tobacco. She stated that the American Lung Association could not support the bill in its current form, as there were concerns for the long term effects. She opined that the proposed taxation would not keep up with inflation and the product price increases for moist snuff. She offered that the American Lung Association could support an amendment for the greater tax amount from either an ad valorem or weight based system.

[3:36:54 PM](#)

MONTE WILLIAMS, Lobbyist, US Smokeless Tobacco, stated that HB 188 would fix a broken tax system. He explained that excise tax was traditionally based on a unit of measurement for an individual consumer item. He described the history of the tax in Alaska and noted that it was difficult to find a single unit for all tobacco products. When all the prices were the same, the tax was the same; however the marketplace had changed as there were now many more products with many varied prices. He shared that discounted tobacco products were now 32 percent of the Alaska market. He indicated that, as the price went down, so did the tax revenue. He compared this to cigarette tax, which remained constant no matter the price of the product. He said that a weight based tax was more fair and equitable, as it did not reward a product for lowering its price.

[3:44:09 PM](#)

MS. NENON pointed to page 1, "Brand Preferences: Percentage of Youth Users" [Included in the committee packets.] and noted the smokeless brand users by age group. She directed attention to the high use of Copenhagen and Skoal by youth 12- 25. She stated that high taxation on tobacco products was one of the most effective deterrents, and that Alaska had good youth sale enforcement.

[3:46:29 PM](#)

CO-CHAIR KELLER closed public testimony.

[3:47:34 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 1, Version 26-LS0714\N.2, Bullock, 2/23/10, which read:

Page 1, line 7, following "**products;**":

Insert "**relating to the offense of selling tobacco to a minor;**"

Page 1, line 9:

Insert a new bill section to read:

"\* **Section 1.** AS 11.76.100(a) is amended to read:

(a) A person commits the offense of selling or giving tobacco or nicotine to a minor if the person

(1) negligently sells a cigarette, a cigar, tobacco, or a product containing tobacco or nicotine to a person under 19 years of age;

(2) is 19 years of age or older and negligently exchanges or gives a cigarette, a cigar, tobacco, or a product containing tobacco or nicotine to a person under 19 years of age;

(3) maintains a vending machine that dispenses cigarettes, cigars, tobacco, or products containing tobacco or nicotine; or

(4) holds a business license endorsement under AS 43.70.075 and allows a person under 19 years of age to sell a cigarette, a cigar, tobacco, or a product containing tobacco or nicotine."

Page 1, line 10:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 3, line 3:

Delete "sec. 4"

Insert "sec. 5"

Page 6, line 21:

Delete "Sections 1 - 4 and 6 - 17"

Insert "Sections 2 - 5 and 7 - 18"

Page 6, line 23:

Delete "Section 5"

Insert "Section 6"

Page 6, line 24:

Delete "sec. 5"

Insert "sec. 6"

Page 6, line 25:

Delete "Section 5"

Insert "Section 6"

Delete "sec. 4"

Insert "sec. 5"

Page 6, line 27:

Delete "sec. 19"

Insert "sec. 20"

[3:47:47 PM](#)

CO-CHAIR KELLER objected for discussion.

[3:47:56 PM](#)

REPRESENTATIVE SEATON explained that proposed Amendment 1 would include nicotine in the same category with tobacco.

[3:49:00 PM](#)

CO-CHAIR HERRON explained that nicotine products had expanded beyond just tobacco products. He offered his support for proposed Amendment 1.

[3:49:48 PM](#)

CO-CHAIR KELLER removed his objection. Seeing no objection, Amendment 1 was adopted.

[3:50:22 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 2, Version 26-LS0714\N.3, Bullock, 2/23/10, which read:

Page 3, line 16:

Delete "sold"

Page 3, line 17, following "(1)":

Insert "sold"

Page 3, line 19, following the second occurrence of "in":

Insert "packages of not less than 10 units and in"

REPRESENTATIVE SEATON explained that proposed Amendment 2 would declare the tax to be on no less than units of 10.

[3:51:30 PM](#)

Seeing no objection, Amendment 2 was adopted.

[3:51:45 PM](#)

REPRESENTATIVE HOLMES moved to adopt Amendment 3, Version 26-LS0714\N.4, Bullock, 2/23/10, which read:

Page 1, lines 1 - 2:

Delete ", **including spitless moist snuff tobacco**"

Page 2, line 14:

Delete "at the rate in (b) of this section [RATE"

Insert "in the amounts described in (b) of this section [AT THE RATE"

Page 2, line 26:

Delete "rate"

Page 2, line 27:

Delete ", other than spitless moist snuff tobacco, is"

Insert "is an amount equal to the wholesale price, but may not be less than"

Page 2, line 30:

Delete all material.

Re-number the following paragraph accordingly.

Page 2, line 31, through page 3, line 1:

Delete "subject to the tax rates in (1) and (2) of this subsection is 75 percent of"

Insert "is an amount equal to"

Page 3, lines 3 - 11:

Delete all material.

Re-number the following bill sections accordingly.

Page 4, line 16, following "tobacco;":  
Insert "and"

Page 4, lines 17 - 18:  
Delete " other than spitless moist snuff tobacco;  
and  
(3) spitless moist snuff tobacco"

Page 6, line 12:  
Delete "(I), and (9)"  
Insert "and (I)"

Page 6, lines 12 - 16:  
Delete ";  
(9) "spitless moist snuff tobacco" means  
moist snuff tobacco that is typically steam-  
pasteurized smokeless tobacco in a tea-bag-like pouch  
designed to be placed between the cheek and gum and is  
manufactured to obviate the need for spitting"

Page 6, line 21:  
Delete "(a) Sections 1 - 4 and 6 - 17"  
Insert "Sections 1 - 16"

Page 6, lines 23 - 26:  
Delete all material.

Renumber the following bill section accordingly.

Page 6, line 27:  
Delete "Except as provided in sec. 19 of this  
Act, this"  
Insert "This"

CO-CHAIR KELLER objected for discussion.

REPRESENTATIVE HOLMES explained that this proposed amendment put moist snuff tobacco and spitless, moist snuff tobacco into the same category; it provided that the tax would be at the greater of weight based or ad valorem; and it would eliminate the three year sunset provision. She offered her belief that this amendment would address the concerns of the American Cancer Society.

[3:53:06 PM](#)

REPRESENTATIVE SEATON declared that companies were trying to "game the system" by changing the packaging to reduce the tax per dose. He noted that having a tax for the greater amount would ensure that taxes were significant and at the full value. He offered his belief that this amendment would get to the problem so that companies could not get around the taxes.

[3:55:35 PM](#)

REPRESENTATIVE HOLMES, in response to Representative T. Wilson and referring to the earlier referenced Tax Per Dose Calculation Sheet, compared the moist snuff dipping tobacco ad valorem and weight based tax, and stated that the higher of the two would be the tax. She explained that should the pricing structure of this product change, the tax was guaranteed to be set at the higher level.

[3:57:11 PM](#)

REPRESENTATIVE T. WILSON asked if this would put a burden on small business.

[3:57:53 PM](#)

CO-CHAIR KELLER offered his opinion that it had a disparity of treatment for various producers. He shared his support of a weight based tax.

[3:58:56 PM](#)

JANIS HALES, Income and Excise Tax Specialist, Department of Revenue (DOR), stated that the weight based pricing was a bit easier than ad valorem pricing, as it was not necessary to know the wholesale price. She declared that the DOR had no preference to either tax.

[3:59:44 PM](#)

REPRESENTATIVE T. WILSON asked if the tax was determined at the time of sale.

[4:00:03 PM](#)

MS. HALES agreed that a tax at the point of sale would become more complex. She noted that a form would be necessary.

[4:00:18 PM](#)

CO-CHAIR HERRON reported that [HB 188] Version N maximized revenue for the state with a straightforward taxation process. He explained that the sunset clause was put into HB 188 so the bill would be reviewed in 3 years. He declared his opposition to proposed Amendment 3.

[4:01:53 PM](#)

REPRESENTATIVE SEATON stated that nicotine products could be of significantly different weights. He pointed to the nicotine strips and announced that the low weight would avoid most of the tax. He pointed out that the tobacco products were not consistent in weight. He declared his support of the amendment as it did not allow tobacco producers to escape the tax.

[4:03:56 PM](#)

REPRESENTATIVE CISSNA said that Alaska leads the country in per capita health care spending. She opined that it was difficult to change habits. She offered her belief that the amendment would act as a deterrent.

[4:05:47 PM](#)

REPRESENTATIVE T. WILSON expressed her concern for small businesses trying to implement proposed Amendment 3.

[4:06:57 PM](#)

REPRESENTATIVE HOLMES stated that both moist snuff and spitless snuff ad valorem taxation was currently calculated on the wholesale price. She asked if DOR supplied support information to businesses.

[4:07:54 PM](#)

MS. HALES explained that the current method for tax determination was for the retailers to attach invoices listing the wholesale price.

[4:08:25 PM](#)

REPRESENTATIVE HOLMES stated that proposed Amendment 3 would follow the same current procedure.

[4:08:34 PM](#)

CO-CHAIR KELLER replied that there was a fundamental difference, and that "a tax per weight just leveled the playing field for all business and we can revisit that rate anytime we like."

[4:09:29 PM](#)

REPRESENTATIVE SEATON asked to verify that businesses submitted invoices to DOR for verification of tax calculation and that DOR would inform the taxpayer to the amount of the tax.

[4:10:15 PM](#)

MS. HALES replied that all invoices had the price, but not necessarily the weight for all the Other Tobacco Products (OTP). She said that weights could vary from product to product.

[4:10:54 PM](#)

REPRESENTATIVE SEATON said that HB 188, without proposed Amendment 3, would require invoices to include weights for DOR to calculate the tax. He stated that Amendment 3 would necessitate that DOR notify the seller as to the amount of tax due, whether it was wholesale price or weight based.

[4:11:42 PM](#)

MS. HALES explained that currently the tax payer calculated the tax due. She detailed that DOR would supply a form to calculate the tax, and that DOR would verify the tax. However, she pointed out, the taxpayer would need to calculate and collect the tax.

[4:12:21 PM](#)

CO-CHAIR KELLER retained his objection.

A roll call vote was taken. Representatives Cissna, Holmes, and Seaton voted in favor of proposed Amendment 3. Representatives T. Wilson, Lynn, Herron, and Keller voted against it. Therefore, Amendment 3 failed by a vote of 3-4.

[4:13:48 PM](#)

REPRESENTATIVE SEATON moved to adopt Amendment 4, Version 26-LS0714|N.5, which read:

Page 1, line 7, following "products;":

Insert "relating to the offense of selling tobacco to a minor;"

Page 6, following line 18:

Insert a new bill section to read:

"\* Sec. 18. AS 11.76.100(e) is repealed."

Renumber the following bill sections accordingly.

Page 6, line 27:

Delete "sec. 19"

Insert "sec. 20"

CO-CHAIR KELLER objected for discussion.

REPRESENTATIVE SEATON explained that currently it was illegal to supply tobacco to a minor, except if a minor was incarcerated at an adult correction facility. He said that Amendment 4 removed that exception.

[4:14:50 PM](#)

CO-CHAIR HERRON expressed support for proposed Amendment 4.

[4:15:00 PM](#)

CO-CHAIR KELLER removed his objection. There being no objection, Amendment 4 was adopted.

[4:15:42 PM](#)

REPRESENTATIVE T. WILSON asked about the proposed sale of cigars packaged in groups of five.

[4:15:51 PM](#)

MR. EARL shared that the intent was that young people could not buy a single cigar, but that he was unclear where the idea had originated.

[4:16:15 PM](#)

CO-CHAIR HERRON offered to get the information to the committee members.

[4:17:05 PM](#)

REPRESENTATIVE T. WILSON asked if further conversation would bring support from the anti-tobacco coalitions.

[4:17:48 PM](#)

MR. EARL replied that he was unsure that further dialogue would result in agreement with those organizations.

[4:17:57 PM](#)

REPRESENTATIVE T. WILSON asked for a summary of the disagreement.

[4:18:10 PM](#)

MR. EARL, in response to Representative T. Wilson, referred to the earlier referenced Tax Per Dose Calculation Sheet. He said that the Spitless MST and the Moist Snuff Dipping Tobacco would be combined into one category and the amendment would charge the greater of the ad valorem or weight based tax.

[4:18:50 PM](#)

REPRESENTATIVE T. WILSON requested more time to review the bill.

[4:19:56 PM](#)

REPRESENTATIVE SEATON, in response to Representative T. Wilson, directed attention to the Tax Per Dose Calculation Sheet and compared the Spitless MST cost per dose to that of cigarettes and the Moist Snuff Dipping Tobacco. He expressed his concern that the light weight tobacco could have a tax that was less than 4 cents per dose. He pointed out that a weight based tax dramatically reduced the tax amount. He opined that this was the concern of the anti-tobacco coalition.

[4:21:37 PM](#)

CO-CHAIR KELLER pointed out that the lighter weight products had been developed with an ad valorem tax in place, not in a weight based tax system. He questioned that the tobacco industry would respond to a tax change by lowering the product weight, as suggested by Representative Seaton.

[4:22:20 PM](#)

REPRESENTATIVE T. WILSON asked if a per dose tax had been considered.

[4:23:06 PM](#)

CO-CHAIR HERRON, in response, said that the suggested tax was a balance. He cited DOR that this would be the easier means to collect the tobacco taxes. He directed attention to the policy issue of the legislation as the most important point. He declared that he would continue to work with the American Cancer Society and the American Lung Association.

[4:24:24 PM](#)

[HB 188 was held over.]

#### **HB 309-DENTAL CARE INSURANCE**

CO-CHAIR KELLER announced that the next order of business would be HOUSE BILL NO. 309, "An Act prohibiting health care insurers that provide dental care coverage from setting a minimum age for receiving dental care coverage, allowing those insurers to set a maximum age for receiving dental care coverage as a dependent, and prohibiting those insurers from setting fees that a dentist may charge for dental services not covered under the insurer's policy."

[4:25:59 PM](#)

CECILE ELLIOTT, Staff for Representative Bill Thomas, Alaska State Legislature, testified that the first provision of HB 309 "prohibits insurance companies from establishing age limitations on young children receiving dental care services." She explained that there was a current national trend for minimum age requirements, limiting dental care coverage to 4 years and older.

MS. ELLIOTT stated that the second provision of HB 309 prohibited insurance companies from fee capping non-covered services, which she explained to be the practice by insurance companies for dictating the cost of dental services that were not covered by insurance.

[4:27:04 PM](#)

CO-CHAIR HERRON asked for an explanation of the contracts between dentists and health insurers, and he noted that the constitution prohibited the passage of any law impairing obligation of contracts.

[4:27:29 PM](#)

MS. ELLIOTT replied that she would need to research this.

[4:27:36 PM](#)

CO-CHAIR HERRON asked about the effect of the bill on Alaskans who exceeded the cap on dental insurance coverage.

[4:28:01 PM](#)

MS. ELLIOTT replied that HB 309 would allow the dentist to offer any additional service for a reasonable fee, without the insurance company dictating that fee. She pointed out that dentists already had published fee schedules.

[4:29:12 PM](#)

MS. ELLIOTT, in response to Representative Wilson, agreed that the contracts for managed care "were entered into with the dentists' knowing," but that the additional clause for non-covered service was problematic.

[4:29:52 PM](#)

REPRESENTATIVE T. WILSON asked to clarify that HB 309 would limit "what they could put in a contractual agreement."

[4:30:20 PM](#)

MS. ELLIOTT agreed that dentists entered into a contractual agreement for covered services, but that there was a fee schedule for non-covered services, as well.

REPRESENTATIVE T. WILSON pointed out that this was regulating contracts.

[4:30:50 PM](#)

CO-CHAIR KELLER opined that it was hard to analyze the real cost resulting from insurance regulation.

[4:32:03 PM](#)

SHEILA TALLMAN stated that Premera had concerns with the provision limiting the fees for non-covered services. She opined that HB 309 would increase the cost to consumers, as it would not allow dentists to consistently pass on the discounted rates for non-covered services which insurers did negotiate. She expressed concern that a Premera policy holder may not know to ask for, and receive, a discount. She pointed to the bill language, which stated that, should a benefit maximum be reached, a patient would be billed, sometimes at a higher rate.

[4:33:30 PM](#)

CO-CHAIR KELLER asked about similar bills in other states.

MS. TALLMAN replied that new bills were being offered in other states, including Oregon and Washington. She shared that she had not seen any cost impacts.

[4:34:21 PM](#)

CO-CHAIR KELLER asked for a reason to the legislation.

MS. TALLMAN offered her belief that some insurance providers were not providing options for the dentists, but that this was a negotiated provision between the dentists and the insurance providers.

[4:35:18 PM](#)

REPRESENTATIVE T. WILSON asked if HB 309 would affect insurance rates.

MS. TALLMAN replied that the main impact would be on the consumers for out of pocket costs. She added that insurance premium rates could be affected as consumers visited non-participating dentists, which would bring lower revenues for participating dentists.

MS. TALLMAN, in response to Representative T. Wilson, stated that dental providers were free to negotiate the contracts, but that consumers were directed to participating dentists through the contract, which was a benefit to the dentist.

[4:36:49 PM](#)

REPRESENTATIVE SEATON asked if a dentist could charge a higher amount for the same service when it was in addition to the covered service.

[4:37:54 PM](#)

MS. ELLIOTT replied that the dentist had a posted fee schedule, which was available to the consumer. She agreed that, as fees were discounted with the insurer, the non-covered service could be more expensive. She highlighted that the non-covered clause of the managed care contract was not negotiable.

[4:39:23 PM](#)

REPRESENTATIVE SEATON asked to clarify the notice of coverage.

[4:40:47 PM](#)

MS. ELLIOTT said that Dr. Mark Prator could better answer this.

[4:42:05 PM](#)

JOHN WOLLER, Dentist, Alaska Dental Society, explained that HB 309 was attempting to level the playing field for non-covered services. He said that dentists were not allowed to enter into collective bargaining agreements with insurance companies, but that it was possible to seek legislative action. In response to Representative T. Wilson, he clarified that dentists were not allowed to negotiate with insurers. He expressed a desire to limit the impact an insurance company could have for pricing a service which they did not cover. He pointed out that, although the insurance company stated a desire to limit fees for consumers, it was the dental provider who absorbed all the costs. He clarified that the contracts were a small percentage of dental care in Alaska. He stated that the reason to sign on to the insurance provider fee schedule was to get more patients. He declared that most dental practices were small businesses and they needed to remain profitable. He reported that contracted fee schedules were at cost, and did not offer any profit; the profit was from non-covered services at the regular fee schedule. He said the contracts had language to limit the regular fee schedule. He asked that the committee pass a law for insurance companies to help defray the cost, as the cost should not all be the responsibility of the dentist.

[4:46:51 PM](#)

REPRESENTATIVE T. WILSON asked to clarify that the contract with the insurance company was only for covered care.

DR. WOLLER said that HB 309 would prevent insurance companies from setting the fee for all non-covered services.

[4:48:16 PM](#)

REPRESENTATIVE T. WILSON asked to clarify how the insurance company could dictate this.

[4:48:38 PM](#)

DR. WOLLER agreed that was what HB 309 was all about.

DR. WOLLER, in response to Representative T. Wilson, said that the insurance companies would threaten to withdraw the contracts if the agreement for fee setting to all non-covered services was not included. He offered an example of a hotel contracting with a tour company for discounted rooms, and then having the tour company state that the hotel needed to also discount its food, gifts, and tours. He said that the costs would just be shifted to other patients without insurance.

[4:51:52 PM](#)

REPRESENTATIVE SEATON asked if the insurance company was only trying to limit the fee for non-covered service to the policy holders of the insurance.

DR. WOLLER agreed.

[4:52:38 PM](#)

MARK PRATOR, Dentist, Alaska Dental Society, noted that there was speculation as to who was going to benefit, and he pointed to the concern for non-covered services. He opined that a greater problem was for access to care, as insurance companies were attempting to limit patients according to age. He pointed out that, as rural dentists dropped out of these contracts, there would not be any care for rural residents. He stated that allowing insurance companies "to dictate what we can charge for services that are not even a part of their plan" would create a lot of problems.

[4:55:32 PM](#)

CO-CHAIR KELLER closed public testimony.

[HB 309 was held over.]

**HB 265-MEDICAID COVERAGE FOR DENTURES**

[4:56:06 PM](#)

CO-CHAIR KELLER announced that the final order of business would be HOUSE BILL NO. 265, "An Act providing for a two-year funding cycle for medical assistance coverage for dentures."

[4:56:43 PM](#)

REPRESENTATIVE BERTA GARDNER, Alaska State Legislature, explained that HB 265 was a change in the funding structure for the Adult Medicaid Dental program. She reported that the current law only allowed for payment of one-half of a set of dentures each fiscal year. HB 265 would allow for patients to receive both upper and lower dentures in the same year, but would not allow them new dentures in the following fiscal year. She emphasized that this did not increase the benefit or the cost to the program and that it was more medically effective.

[4:58:24 PM](#)

REPRESENTATIVE LYNN asked if this would affect routine care.

REPRESENTATIVE GARDNER replied that other coverage would not be affected.

[4:59:15 PM](#)

REPRESENTATIVE CISSNA opined that HB 265 appeared to be very cost effective. She asked what the cost savings would be to the state and the system.

[4:59:40 PM](#)

REPRESENTATIVE GARDNER offered to explain the fiscal notes during the next meeting.

[HB 265 was held over.]

[5:00:10 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:00 p.m.