

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 19, 2009

1:04 p.m.

MEMBERS PRESENT

Representative Jay Ramras, Chair
Representative Nancy Dahlstrom, Vice Chair
Representative John Coghill
Representative Carl Gatto
Representative Bob Lynn
Representative Max Gruenberg
Representative Lindsey Holmes

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 15

"An Act relating to prohibiting the use of cellular telephones by minors when driving a motor vehicle; and providing for an effective date."

- MOVED NEW CSHB 15(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 101

"An Act exempting the full value of life insurance and annuity contracts from levy to satisfy unsecured debt, and amending the description of earnings, income, cash, and other assets relating to garnishment of life insurance proceeds payable upon the death of an insured."

- MOVED CSHB 101(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 152

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; providing for an effective date by repealing the effective date of sec. 33, ch. 122, SLA 1977; and providing for an effective date."

- MOVED CSHB 152(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 15

SHORT TITLE: BAN CELL PHONE USE BY MINORS WHEN DRIVING

SPONSOR(S): REPRESENTATIVE(S) GARDNER, TUCK

01/20/09 (H) PREFILE RELEASED 1/9/09
01/20/09 (H) READ THE FIRST TIME - REFERRALS
01/20/09 (H) JUD, FIN
03/16/09 (H) JUD AT 1:00 PM CAPITOL 120
03/16/09 (H) Moved CSHB 15(JUD) Out of Committee
03/16/09 (H) MINUTE(JUD)
03/18/09 (H) JUD AT 1:00 PM CAPITOL 120
03/18/09 (H) Heard & Held
03/18/09 (H) MINUTE(JUD)
03/19/09 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 101

SHORT TITLE: EXEMPTIONS: LIFE INSURANCE; ANNUITIES

SPONSOR(S): REPRESENTATIVE(S) COGHILL

01/30/09 (H) READ THE FIRST TIME - REFERRALS
01/30/09 (H) L&C, JUD
02/18/09 (H) L&C AT 3:15 PM BARNES 124
02/18/09 (H) Moved Out of Committee
02/18/09 (H) MINUTE(L&C)
02/20/09 (H) L&C RPT 3DP 3NR
02/20/09 (H) DP: LYNN, CHENAULT, COGHILL
02/20/09 (H) NR: BUCH, HOLMES, OLSON
03/02/09 (H) JUD AT 1:00 PM CAPITOL 120
03/02/09 (H) Heard & Held
03/02/09 (H) MINUTE(JUD)
03/16/09 (H) JUD AT 8:00 AM CAPITOL 120
03/16/09 (H) Heard & Held
03/16/09 (H) MINUTE(JUD)
03/19/09 (H) JUD AT 1:00 PM CAPITOL 120

BILL: HB 152

SHORT TITLE: 2009 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

02/25/09 (H) READ THE FIRST TIME - REFERRALS
02/25/09 (H) JUD
03/16/09 (H) JUD AT 8:00 AM CAPITOL 120
03/16/09 (H) Heard & Held
03/16/09 (H) MINUTE(JUD)
03/19/09 (H) JUD AT 1:00 PM CAPITOL 120

WITNESS REGISTER

ANNE CARPENETI, Assistant Attorney General
Legal Services Section
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 15, spoke in favor of Amendment 2.

AMANDA MORTENSEN, Intern
Representative John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During discussion of HB 101, on behalf of the sponsor, Representative Coghill, explained the changes incorporated into Version P.

LINDA HULBERT, Agent
New York Life Insurance Company
Fairbanks, Alaska

POSITION STATEMENT: During discussion of HB 101, expressed support for Version P.

KATHRYN KURTZ, Assistant Revisor
Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency (LAA)
Juneau, Alaska

POSITION STATEMENT: Speaking as the assistant revisor, on behalf of the Senate Rules Standing Committee, sponsor by request of Legislative Council, explained the amendments to HB 152.

ACTION NARRATIVE

[1:04:15 PM](#)

CHAIR JAY RAMRAS called the House Judiciary Standing Committee meeting to order at 1:04 p.m. Representatives Ramras, Dahlstrom, Coghill, Gatto, and Gruenberg were present at the call to order. Representatives Lynn and Holmes arrived as the meeting was in progress.

HB 15 - BAN CELL PHONE USE BY MINORS WHEN DRIVING

[1:04:41 PM](#)

CHAIR RAMRAS announced that the first order of business would be HOUSE BILL NO. 15, "An Act relating to prohibiting the use of cellular telephones by minors when driving a motor vehicle; and providing for an effective date."

CHAIR RAMRAS explained that left pending from 3/18/09 was the motion to adopt Amendment 2, labeled 26-LS0110\E.1, Luckhaupt, 3/18/09, which read:

Page 1, lines 10-11:

Delete "has probable cause"

Insert "is authorized by law"

[1:05:24 PM](#)

ANNE CARPENETI, Assistant Attorney General, Legal Services Section, Criminal Division, Department of Law (DOL), explained that the DOL both likes and suggested Amendment 2 because it would make the bill more effective in curbing distracted driving by [minors] using cellular ("cell") phones while they drive, indicating that any term other than "is authorized by law" would not be sufficient given that the behavior the bill is intended to address would only be a secondary offense.

REPRESENTATIVE GATTO questioned why it's necessary to have that language in the bill, given that the term "peace officer" includes uniformed police officers.

MS. CARPENETI surmised that this standard for stopping a person has been included in order to preclude a law enforcement officer from stopping someone without any legal basis for doing so. In response to another question, she pointed out that under the bill, a minor cannot be stopped just for using a cell phone while driving; the police officer would have to stop the minor for a reason other than using a cell phone while driving, and would have to have a legal basis for making that stop to begin with, and then, in addition to any other citations or arrests, the officer could cite the minor with using a cell phone while driving.

REPRESENTATIVE GATTO indicated that he is simply questioning whether the term "is authorized by law" is repetitive or unnecessary.

MS. CARPENETI said that including that term would simply clarify that the officer has to have a legal reason for making the stop to begin with.

CHAIR RAMRAS asked whether Amendment 2 lowers what he termed the "probable cause standard as applied under Coleman."

MS. CARPENETI explained that the 1976 Coleman v. State case adopts the "reasonable suspicion" standard, which is lower than the probable cause standard; the court decision in Coleman recognizes [reasonable suspicion] as a legal basis for making a stop in Alaska. Such is the standard used in every other state she is familiar with, she relayed, as well as the standard used under federal law.

REPRESENTATIVE GRUENBERG surmised that the bill must include either the current language or the suggested language - that having neither language would not be a workable option.

The committee took an at-ease from 1:11 p.m. to 1:13 p.m.

CHAIR RAMRAS relayed that HB 15 and the question of whether to adopt Amendment 2 would be set aside until later in the meeting.

HB 101 - EXEMPTIONS: LIFE INSURANCE; ANNUITIES

[1:13:51 PM](#)

CHAIR RAMRAS announced that the next order of business would be HOUSE BILL NO. 101, "An Act exempting the full value of life insurance and annuity contracts from levy to satisfy unsecured debt, and amending the description of earnings, income, cash, and other assets relating to garnishment of life insurance proceeds payable upon the death of an insured." [Before the committee was the proposed committee substitute (CS) for HB 101, Version 26-LS0176\E, Bailey, 2/19/09, which had been adopted as the work draft on 3/2/09; also in members' packets was a new proposed CS for HB 101, Version 26-LS0176\P, Bailey, 3/18/09.]

[1:14:01 PM](#)

REPRESENTATIVE DAHLSTROM moved to adopt the proposed CS for HB 101, Version 26-LS0176\P, Bailey, 3/18/09, as the work draft. There being no objection, Version P was before the committee.

[1:14:53 PM](#)

AMANDA MORTENSEN, Intern, Representative John Coghill, Alaska State Legislature, explained on behalf of the sponsor, Representative Coghill, that Section 1 of Version P proposes to

add the exemption for unmatured life insurance and annuity contracts to AS 09.38.015(a) - a change suggested by Legislative Legal and Research Services; that Section 3 of Version P proposes to repeal AS 09.38.025(a) - thus repealing the current \$10,000 exemption cap on life insurance and annuity contracts; and that Version P now contains an applicability section - Section 4 - that states [Sections 1 and 3] would only apply to a debt that is created on or after the effective date of this Act. This means that loans granted before the enactment of the bill would be subject to garnishment of any amount above \$10,000 on unmatured life insurance and annuity contracts.

[1:16:46 PM](#)

LINDA HULBERT, Agent, New York Life Insurance Company, relayed that she supports Version P.

CHAIR RAMRAS closed public testimony on HB 101.

[1:17:11 PM](#)

REPRESENTATIVE DAHLSTROM moved to report the proposed CS for HB 101, [Version 26-LS0176\P, Bailey, 3/18/09,] out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 101(JUD) was reported from the House Judiciary Standing Committee.

HB 15 - BAN CELL PHONE USE BY MINORS WHEN DRIVING

[1:17:46 PM](#)

CHAIR RAMRAS announced that as the next order of business, the committee would return to the hearing on HOUSE BILL NO. 15, "An Act relating to prohibiting the use of cellular telephones by minors when driving a motor vehicle; and providing for an effective date." [The question of whether to adopt Amendment 2 was left pending from earlier in the meeting.]

REPRESENTATIVE HOLMES removed her objection to Amendment 2 [text provided previously]. There being no further objection, Amendment 2 was adopted.

[1:18:39 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 15, as amended via Amendment 2, out of committee with individual recommendations and the accompanying zero fiscal note. There being no

objection, CSHB 15(JUD) was reported from the House Judiciary Standing Committee.

The committee took an at-ease from 1:19 p.m. to 1:22 p.m.

HB 152 - 2009 REVISOR'S BILL

[1:22:48 PM](#)

CHAIR RAMRAS announced that the final order of business would be HOUSE BILL NO. 152, "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; providing for an effective date by repealing the effective date of sec. 33, ch. 122, SLA 1977; and providing for an effective date." [Before the committee was HB 152 as amended via Amendment 1 on 3/16/09.]

[1:23:17 PM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 2, labeled 26-LS0158\E.3, Kurtz, 3/18/09, which read:

Page 14, lines 11 - 12:

Delete "42 U.S.C. 659(i)(5) (sec. 459(i)(5), Social Security Act) [42 U.S.C. 662(e) (SEC. 462(e), SOCIAL SECURITY ACT)]"

Insert "42 U.S.C. 662(e) (sec. 462(e), Social Security Act)"

REPRESENTATIVE HOLMES objected [for the purpose of discussion].

The committee took an at-ease from 1:23 p.m. to 1:24 p.m.

[1:24:57 PM](#)

KATHRYN KURTZ, Assistant Revisor, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency (LAA), explained that Amendment 2 would remove the second proposed change in Section 39, thus leaving AS 23.20.401(b)(3) unchanged and continuing to reference a federal code that's been repealed. Should the committee wish to change that reference later, it could do so via a different bill, she suggested.

REPRESENTATIVE HOLMES removed her objection.

CHAIR RAMRAS stated that Amendment 2 was adopted.

[1:26:41 PM](#)

REPRESENTATIVE COGHILL made a motion to adopt Amendment 3, labeled 26-LS0158\E.4, Kurtz, 3/18/09, which read:

Page 3, lines 10 - 15:
Delete all material.

Renumber the following bill sections accordingly.

Page 6, line 31, through page 7, line 5:
Delete all material.

Renumber the following bill sections accordingly.

Page 29, line 31, through page 30, line 5:
Delete all material.

Renumber the following bill sections accordingly.

Page 46, line 4, through page 48, line 1:
Delete all material.

Page 48, line 22:
Delete "Section 89"
Insert "Section 84"

Page 48, line 27:
Delete "sec. 89"
Insert "sec. 84"

Page 48, line 28:
Delete "sec. 90"
Insert "sec. 85"

Page 48, line 29:
Delete "Section 59"
Insert "Section 56"

Page 48, line 30:
Delete "secs. 92 and 93"
Insert "secs. 87 and 88"

REPRESENTATIVE HOLMES objected for the purpose of discussion.

MS. KURTZ explained that Amendment 3 proposes to delete five sections - Sections 7, 20, 46, 84, and 85 - because they all

alter references to federal statutes, and their inclusion may inadvertently result in a substantive change to Alaska law, and this is not the intent of the revisor's bill. The statutes that these sections are proposing to alter can be addressed later via a different bill, she suggested.

REPRESENTATIVE COGHILL concurred that it would be better to have the departments speak to those statutes and references to federal code. He said he supports amendment 3.

REPRESENTATIVE HOLMES removed her objection.

CHAIR RAMRAS stated that Amendment 3 was adopted.

[1:28:45 PM](#)

REPRESENTATIVE DAHLSTROM moved to report HB 152, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 152(JUD) was reported from the House Judiciary Standing Committee.

[1:30:09 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:30 p.m.