

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

February 13, 2009

3:19 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Mark Neuman, Vice Chair
Representative Mike Chenault
Representative Bob Lynn
Representative Robert L. "Bob" Buch

MEMBERS ABSENT

Representative John Coghill
Representative Lindsey Holmes

OTHER LEGISLATORS PRESENT

Representative Craig Johnson

COMMITTEE CALENDAR

HOUSE BILL NO. 93

"An Act relating to unwanted telephone solicitations on a cellular or mobile telephone and making those calls to cellular or mobile telephones registered with the national do not call registry violations of the Alaska Unfair Trade Practices and Consumer Protection Act."

- MOVED HB 93 OUT OF COMMITTEE

HOUSE BILL NO. 102

"An Act relating to the Uniform Commercial Code, to the general provisions of the Uniform Commercial Code, to documents of title under the Uniform Commercial Code, to the Uniform Electronic Transactions Act, and to lease-purchases of personal property; amending Rules 403 and 902, Alaska Rules of Evidence; and providing for an effective date."

- MOVED HB 102 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 93

SHORT TITLE: DO NOT CALL REGISTRY--MOBILE/CELL PHONES

SPONSOR(s): REPRESENTATIVE(s) CHENAULT

01/28/09 (H) READ THE FIRST TIME - REFERRALS
01/28/09 (H) L&C
02/13/09 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 102

SHORT TITLE: UNIFORM COMMERCIAL CODE

SPONSOR(s): LABOR & COMMERCE

01/30/09 (H) READ THE FIRST TIME - REFERRALS
01/30/09 (H) L&C, JUD
02/13/09 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MIKE CHENAULT

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified as prime sponsor of HB 93.

MARIE DARLIN, Coordinator

AARP Capital City Task Force

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 93.

TOM WRIGHT, Staff

Representative Mike Chenault

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified on HB 93, on behalf of the prime sponsor, Representative Mike Chenault.

REPRESENTATIVE MAX GRUENBERG

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Testified and answered questions during the discussion on HB 102.

TERRY THURBON, Alaska Uniform Law Commissioner

National Conference of Commissioners on Uniform State Laws
(NCCUSL)

Juneau, Alaska

POSITION STATEMENT: Presented HB 102 and answered questions during the discussion on HB 102.

ACTION NARRATIVE

3:19:56 PM

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Buch, Chenault, Lynn, Neuman, and Olson were present at the call to order. Representative Craig Johnson was also in attendance.

HB 93-DO NOT CALL REGISTRY--MOBILE/CELL PHONES

3:20:23 PM

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 93, "An Act relating to unwanted telephone solicitations on a cellular or mobile telephone and making those calls to cellular or mobile telephones registered with the national do not call registry violations of the Alaska Unfair Trade Practices and Consumer Protection Act."

3:20:24 PM

REPRESENTATIVE MIKE CHENAULT, Alaska State Legislature, Juneau, Alaska, read his sponsor statement on HB 93, as follows[original punctuation provided]:

House Bill 93 adds a cellular or mobile telephone to the definition of the telephone solicitation as defined under AS 45.50.475(g). In essence, this bill adds to state statute, cell or mobile phones to the unlawful, unwanted telephone advertisements and solicitations section.

The Federal Trade Commission, which has oversight over the Do Not Call Registry, opened this service in June 2003. The service allows a consumer to register their telephone or cellular or mobile phones should that consumer wish to limit telemarketing calls.

The state statute does not recognize cell or mobile phones under the definition of prohibited activities as it relates to telephone solicitation. House Bill 93 revises the definition to put our statutes more in line with federal guidelines and makes it clear that Alaskan consumers have protection from unwanted telemarketing calls.

3:22:01 PM

REPRESENTATIVE LYNN asked whether the bill covers satellite phones.

REPRESENTATIVE CHENAULT answered that it is his intention that HB 93 would cover all telephones.

REPRESENTATIVE CHENAULT, in response to Representative Lynn, offered his belief that HB 93 as written covers all phones. He related that "cellular" refers to cellular phones, and that satellite phones will be covered under mobile phones.

REPRESENTATIVE NEUMAN reiterated for the record that satellite phones will be covered under the bill.

REPRESENTATIVE BUCH offered his appreciation the sponsor brought this matter forward and that the sponsor has worked with the authorities. He remarked that some people have been taken advantage of by telephone solicitations. Thus, he is thankful the issue will be addressed under the bill.

3:23:41 PM

MARIE DARLIN, Coordinator, AARP Capital City Task Force, stated that she has submitted a letter of support for HB 93. She stated that the AARP Capital City Task Force worked hard on the original "do not call" legislation that passed the legislature some time ago. She opined that including cell phones and mobile phones is an important step forward. She urged members to pass HB 93.

3:24:38 PM

CHAIR OLSON, after first determining no one wished to testify, closed public testimony on HB 93.

3:24:48 PM

REPRESENTATIVE LYNN related that a "no call list" has been developed for regular telephone directories and inquired as to whether a directory has been developed for cellular phones.

CHAIR OLSON answered that the listings are available on a compact disc (CD) or digitally by direct marketing. In further response to Representative Lynn, Chair Olson said he did not

know. He surmised that the federal government probably would supply the information at no cost.

[3:25:37 PM](#)

TOM WRIGHT, Staff, Representative Mike Chenault, Alaska State Legislature, explained on behalf of the prime sponsor, Representative Mike Chenault, that he has been in contact with Alaska Communications System (ACS) and AT&T Alascom to discuss the issue. He explained that carriers such as Verizon Communications are currently compiling directories together, but restricted to 411 services. He related that HB 93 is proactive so that in the event directories are ever published for cellular phones, they will be covered under the national "Do Not Call Registry" under the federal statute if the directories become public.

[3:26:18 PM](#)

REPRESENTATIVE NEUMAN moved to report HB 93, Version 26-LS0413\A out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 93 was reported from the House Labor and Commerce Standing Committee.

[3:27:04 PM](#)

The committee took an at-ease from 3:27 p.m. to 3:29 p.m.

HB 102-UNIFORM COMMERCIAL CODE

[3:29:01 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 102, "An Act relating to the Uniform Commercial Code, to the general provisions of the Uniform Commercial Code, to documents of title under the Uniform Commercial Code, to the Uniform Electronic Transactions Act, and to lease-purchases of personal property; amending Rules 403 and 902, Alaska Rules of Evidence; and providing for an effective date." He explained that the bill is a House Labor and Commerce Standing Committee bill at the request of Representative Max Gruenberg, who is here to testify on HB 102.

[3:29:03 PM](#)

REPRESENTATIVE MAX GRUENBERG, Alaska State Legislature, offered his appreciation for the work of the uniform commissioners

coming to the legislature with a request to update two articles in the Uniform Commercial Code (UCC). He briefly explained that Article 1 is the general article in the UCC, which is the law governing commerce and is in effect in every state in the union. He further explained that the nine articles undergo periodic revision by the Uniform Law Commissioners (ULC). He related that Article 1 was last revised in 2001, and 34 other states have adopted this version. He remarked that Alaska will be the 35th state to adopt Article 1, if HB 102 passes the legislature. He offered that Article 7 pertains to warehouse receipts and bills of lading, which affects the warehouse industry and self-storage industry. He opined that Article 7 is important to the industries and was last revised in 2007, which 31 other states have adopted.

[3:32:16 PM](#)

REPRESENTATIVE GRUENBERG, in response to Representative Neuman, answered that he has read HB 102 in its entirety and has discussed the bill several times with the uniform law commissioners. He offered that a number of issues have been resolved, including a few grammatical alterations. He remarked that he is not an expert in commercial code or the warehouse provisions. However, he noted that the provisions in HB 102 have been vetted through the Alaska Bar Association's business law section, specifically an attorney familiar with the warehouse industry. He indicated that the ABA attorney did not raise any issues.

REPRESENTATIVE NEUMAN related his understanding that HB 102 has a referral to the House Judiciary Standing Committee. He opined that it would be appropriate for that committee to review the bill in detail since the bill contains legal issues. He further opined that it would be appropriate for the House Judiciary Standing Committee to take up any amendments that pertain to legal issues.

CHAIR OLSON related his understanding that Representative Holmes has also read the bill, as well as her attorney staff member.

CHAIR OLSON also noted that Representative Gruenberg has several amendments that he would like to take up when HB 102 is referred to the House Judiciary Standing Committee.

[3:34:44 PM](#)

TERRY THURBON, Alaska Uniform Law Commissioner, National Conference of Commissioners on Uniform State Laws (NCCUSL), explained that she is the chief administrative law judge in the Office of Administrative Hearings for the state, but that she is speaking as one of Alaska's Uniform Law Commissioners. She listed the state's delegation of uniform law commissioners as Lynn Levensgood, Michael Geraghty, Justice Walter Carpeneti, Deborah Behr, Arthur Peterson, Grant Callow, and Tamara Cook. She related that uniform law commissioners are volunteers for the Uniform Law Commission and work with the NCCUSL to develop uniform and model acts. The commissioners bring back uniform and model laws to the state for consideration. She offered that this year the UCC revisions Representative Gruenberg mentioned are under consideration in HB 102.

[3:36:29 PM](#)

MS. THURBON offered an overview of HB 102 and the changes to the UCC. She noted that most of the UCC changes are not substantive but are simple housekeeping measures or updates. She stated that the bill does essentially two things. First, it modernizes and updates Alaska law, and brings us into conformity with 35 other states. She offered that several other states are working to adopt the changes to Article 1 and Article 7 of the UCC. She mentioned that every state has a UCC in place using some of the national model of the Uniform Law Commission (ULC). She detailed that adopting Article 7 of the UCC will bring Alaska into the modern age by recognizing how shipping and warehousing industries actually conduct business. This includes the use of electronic media as opposed to paper media in tracking shipments and passing ownership and evidence of ownership when goods pass through a third party like FedEx. She stated that Article 1 changes are revisions to what are considered the general default provisions of the UCC, that provide definitions and general tools in order to make the other eight articles of the UCC function.

[3:38:42 PM](#)

MS. THURBON related some substantive changes such as clarification on good faith, the parties' course of performance and dealings, and the scope of the general provisions, relative to the other articles and non-UCC law to ensure that the UCC does not contain unnecessary provisions. She offered her belief that while HB 102 is lengthy and contains many provisions, that the changes are straightforward. She mentioned that only 15 of the 113 changes in the bill were substantive changes.

[3:40:03 PM](#)

MS. THURBON, in response to Representative Buch, explained that the UCC is adopted in most states to govern commercial transactions. Thus, the UCC regulates the transactions between private parties, although it has some impact on state and federal government as the entities engage in interstate commerce.

REPRESENTATIVE GRUENBERG interjected that this governs private transactions. He offered a scenario, such that if a person places his/her goods into storage, the contract with the storage company is governed by the UCC. He related that Article 2 of the UCC pertains to sales, so if a person purchases an item at a store, the transaction is governed by the UCC. He further related that Article 5 of the UCC pertains to banking. Thus, the government itself is not involved except to enact the set of laws. He pointed out that in the event of a dispute, the parties would resolve the dispute in court. Therefore, the government may be a party to transaction, but the vast majority of transactions are "between company A and company B or company A and individual B." He said, "The government's not involved."

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REPRESENTATIVE BUCH inquired as to which agency has oversight over the UCC, whether it would be the Department of Labor & Workforce Development or the Department of Commerce, Community, & Economic Development.

[3:42:14 PM](#)

REPRESENTATIVE GRUENBERG answered that there is no more oversight than when a person rents a house governed by the Landlord Tenant Act. In the event of a dispute with the landlord, no one oversee the matter. Instead, the dispute would be adjudicated by the court or the landlord would take eviction actions through the court.

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CHAIR OLSON, after first determining no one wished to testify, closed public testimony on HB 102.

[3:44:13 PM](#)

REPRESENTATIVE NEUMAN moved to report HB 102, Version 26-LS0059\E out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 102 was reported from the House Labor and Commerce Standing Committee.

[3:44:35 PM.](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:44 p.m.