

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

March 9, 2009

1:37 pm

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Gene Therriault

MEMBERS ABSENT

Senator Lesil McGuire

COMMITTEE CALENDAR

SENATE BILL NO. 51

"An Act relating to the installation of window tinting in automobiles."

HEARD AND HELD

SENATE BILL NO. 19

"An Act relating to complaints concerning peace officers and village public safety officers and to notification to persons filing complaints concerning peace officers and village public safety officers."

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 51

SHORT TITLE: MOTOR VEHICLE WINDOW TINTING

SPONSOR(S): SENATOR(S) FRENCH

01/21/09	(S)	PREFILE RELEASED 1/9/09
01/21/09	(S)	READ THE FIRST TIME - REFERRALS
01/21/09	(S)	TRA, JUD
02/24/09	(S)	TRA AT 1:00 PM BUTROVICH 205
02/24/09	(S)	Heard & Held
02/24/09	(S)	MINUTE(TRA)
03/03/09	(S)	TRA AT 1:00 PM BUTROVICH 205
03/03/09	(S)	Moved CSSB 51(TRA) Out of Committee
03/03/09	(S)	MINUTE(TRA)
03/05/09	(S)	TRA RPT CS 1DP 1NR 2AM SAME TITLE
03/05/09	(S)	DP: KOOKESH
03/05/09	(S)	NR: MEYER

03/05/09 (S) AM: DAVIS, PASKVAN
03/09/09 (S) JUD AT 1:30 PM BELTZ 211

BILL: SB 19

SHORT TITLE: COMPLAINTS AGAINST PEACE OFFICERS/VPSOS

SPONSOR(s): SENATOR(s) FRENCH

01/21/09 (S) PREFILE RELEASED 1/9/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) CRA, STA, JUD
02/03/09 (S) CRA AT 3:30 PM BELTZ 211
02/03/09 (S) Heard & Held
02/03/09 (S) MINUTE(CRA)
02/05/09 (S) CRA AT 3:30 PM BELTZ 211
02/05/09 (S) Moved CSSB 19(CRA) Out of Committee
02/05/09 (S) MINUTE(CRA)
02/06/09 (S) CRA RPT CS 4DP 1NR NEW TITLE
02/06/09 (S) DP: FRENCH, THOMAS, KOOKESH, MENARD
02/06/09 (S) NR: OLSON
02/24/09 (S) STA AT 9:00 AM BELTZ 211
02/24/09 (S) Moved CSSB 19(CRA) Out of Committee
02/24/09 (S) MINUTE(STA)
02/25/09 (S) STA RPT CS(CRA) 2DP 1NR 2AM
02/25/09 (S) DP: MENARD, FRENCH
02/25/09 (S) NR: KOOKESH
02/25/09 (S) AM: PASKVAN, MEYER
03/09/09 (S) JUD AT 1:30 PM BELTZ 211

WITNESS REGISTER

KEN STATAFORA, Lieutenant
Anchorage Police Department
Anchorage AK

POSITION STATEMENT: Testified in support of SB 51.

RODNEY DIAL, Lieutenant
Department of Public Safety
Ketchikan AK

POSITION STATEMENT: Testified in support of SB 51.

BOB BOSWOOD, President
Auto Trim Design
Fairbanks AK

POSITION STATEMENT: Testified in opposition to SB 51.

STEVE VINCENT, General Manager
Auto Trim Design

Fairbanks AK

POSITION STATEMENT: Testified in opposition to SB 51.

TATE OLSON, Technician
Auto Trim Design
Fairbanks,

POSITION STATEMENT: Testified in opposition to SB 51.

JOE MASTERS, Commissioner Designee
Department of Public Safety
Anchorage AK

POSITION STATEMENT: Reported what DPS is doing in the spirit of SB 19.

ACTION NARRATIVE

[1:37:42 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Therriault, Wielechowski and French.

SB 51-MOTOR VEHICLE WINDOW TINTING

[1:38:10 PM](#)

CHAIR FRENCH announced the consideration of SB 51 and noted that it is not his intention to move the bill today. [Before the committee was CSSB 51(TRA).] Speaking as sponsor, he explained that the bill is about illegal window tinting. The Spenard Community Council said members of the public are concerned about vehicles with darkly tinted windows traversing their neighborhoods. Being unable to see who is in the car and therefore who is in the neighborhood is worrisome. In the course of their investigation they found that although it is illegal to drive a car with windows that have dark tinting, it is not illegal for a shop to install that product. The logical outgrowth of that observation is to make the installation of illegal window tint a citable offense.

[1:39:36 PM](#)

He noted that California, Nevada and Washington all allow the imposition of jail time for installing tinting that is too dark. When the bill was introduced last year he concluded that it was too onerous to impose jail time for what is essentially a traffic offense. SB 51 keeps the traffic infraction penalty in place with a maximum fine of \$300 for installing window tinting that is too dark according to state regulation.

CHAIR FRENCH opened public testimony.

1:40:27 PM

KEN STATAFORA, Lieutenant, said he has been a police officer in Anchorage for 31 years. Currently he is in charge of the traffic section and has spoken to numerous patrol and traffic officers who have legitimate complaints with dark window tinting. Two safety issues are involved. One is that accidents can be prevented if motorists are able to maintain eye contact with adjacent drivers. The other is that it can tie officers' hands if they can't see into vehicles when they're trying to locate a driver or match a particular car to a driver. Another concern relates to the medical exemption. The reality is that these are essentially hand-written notes and APD would like to request that they be an official standardized document that contains the doctor's name and phone number for verification purposes.

LIEUTENANT STATAFORA stated support for the provision to require a tint hologram to identify the installer and certify that the installation complies with the law, but the biggest issue is safety. Walking up to a vehicle is one of the most dangerous jobs an officer faces and being able to see a suspect's action has allowed him to avert serious harm or death numerous times. "I'm sure that that claim is echoed by every law enforcement officer in the state," he said.

SENATOR THERRIAULT asked how much time he has spent in a patrol car.

LIEUTENANT STATAFORA replied he spent 18 years on the graveyard shift, 13 years working homicide and robbery cases. For 10 years he was on the SWAT team and was responsible for stopping numerous vehicles and taking violent suspects into custody.

RODNEY DIAL, Lieutenant, Alaska State Troopers, Department of Public Safety (DPS), said DPS supports SB 51. The bill is not about changing standards; it is a means of keeping businesses from installing a product that makes a vehicle illegal.

LIEUTENANT DIAL explained that last week in Ketchikan he used a certified tint meter on a series of foreign and domestic vehicles. On average, the driver's and passenger's side windows with factory installed light tint blocked 28 percent to 30 percent of all light, which is legal under current Alaska law. He then applied a medium tint on top of the stock factory tint and retested the windows. The combination blocked between 68 percent and 72 percent of all light. This is essentially darker

than sunglasses, he said. If you were to apply a medium tint on top of windows that lawfully block 60 percent of light, the result would be a window that blocks over 90 percent of all light.

Currently 45 states and the District of Columbia have net tint standards, which take into account after market tinting. Auto Trim Design is advocating a film standard to allow application of a 35 percent film atop stock factory tinted windows. This means that some windows would block 90 percent of all light, which is particularly dark at night. For perspective, cosmetic sunglasses allow four times more light to pass through and it's recommended that they not be worn at night. Relaxing the standards to make everyone happy really isn't an option, he said. The industry standpoint is that customers want medium or dark tint, but the current standards help keep law enforcement officers, pedestrians and other drivers safe. He asked the committee to maintain the current tint standards and pass SB 51.

SENATOR THERRIAULT asked how much time he has spent in a patrol car where he has had to deal with tinted windows.

LIEUTENANT DIAL replied nearly his entire career. About 12 years have been devoted to exclusive patrol functions and most of that time was in rural communities where there were few if any streetlights. Tinted windows were a bigger concern in those areas.

SENATOR THERRIAULT asked if there is much tint on vehicle windows in rural Alaska.

LIEUTENANT DIAL said no, but he ran into it on a frequent basis when he worked at the Talkeetna and Glennallen road posts.

BOB BOSWOOD, President, Auto Trim Design, Fairbanks, said he opposes the current tinting regulations because they are too restrictive to allow his business to survive. His business is to tint windows and he feels that applying a 35 percent medium film allows sufficient view into a vehicle so as to not be a safety issue. He has spoken to numerous police officers and troopers in the Fairbanks area and 99 percent had no problem with that level of film. "Nor did they feel that they were at risk in pulling that vehicle over once they've lit them up at night," he said.

MR. BOSWOOD disputed the statement that 35 percent tint atop factory tint blocks 90 percent of the light. Rather, it allows between 28 percent and 32 percent light transmittance. He said

he would support tint laws like California, Nevada and Washington have, but he would note that all those laws are less restrictive than Alaska's tint laws. He relayed that all his customers sign a waiver acknowledging that the tint does not comply with Alaska regulations. He expressed the view that SB 51 will not stop people from applying dark tint, but it will put some reputable businesses out of business.

SENATOR THERRIAULT asked if the current regulations require an installer to apply a hologram.

CHAIR FRENCH said it's a new requirement in the bill on page 2, lines 2-3; it's not part of current regulation.

STEVE VINCENT, General Manager, Auto Trim Design, Fairbanks, said Fairbanks Police Chief Dan Hoffman stated in a letter that he would support a reasonable lessening of the current tint laws so long as they comport with the majority of other state standards and allow adequate visibility to approaching law enforcement officers. North Pole Police Chief Paul Lindhag also sent a letter supporting 35 percent light transmission on the front windows of vehicles.

MR. VINCENT told the committee that he has a medical waiver because of a family history of melanoma. 70 percent UV block on a window is not sufficient to stop the growth of melanoma or cancer cells, he said. Current law doesn't give people the opportunity to take preventative steps; they have to wait until they've been diagnosed with a cancer problem. He said he resents that he has a medical waiver, but his truck is targeted because there is no sticker to identify that he has a medical waiver.

CHAIR FRENCH thanked him for the suggestion about an identifier for a medical waiver.

2:04:48 PM

TATE OLSON, Technician, Auto Trim Design, Fairbanks, said he has worked hard for the last two years to become proficient at installing window tint. In that time he has tinted many vehicles and some are official. In his opinion 35 percent tint is a film that is very visible. The factory tint is very light. He sees work that he's done every day and he can see these drivers fully.

CHAIR FRENCH, finding no further testimony, closed public testimony and announced he would hold SB 51 for potential future action.

SB 19-COMPLAINTS AGAINST PEACE OFFICERS/VPSOS

2:06:59 PM

CHAIR FRENCH announced the consideration of SB 19. [Before the committee was CSSB 19(CRA).] Speaking as sponsor, he said the bill is about making the complaint process regarding state troopers more transparent because the current system allows almost no feedback to the citizen who has lodged a complaint against a trooper. The bill has two provisions. The first would allow the citizen to receive status reports to provide reassurance that the complaint is progressing through the system. The second provision, on page 2, allows the citizen to receive feedback once the complaint is finished so they would know whether or not the complainant was found to be valid.

He has had numerous conversations with public safety employees and he recognizes their concerns with the bill. He has also spoken with Anchorage Police Department (APD) officers about how they handle this process and they have some interesting ideas. He noted that the administration is also working on the issue to institute [transparency] administratively, with or without passage of SB 19. He recognizes there are pitfalls and benefits to each approach and he intends to proceed cautiously.

At-ease from 2:10:03 PM to 2:11:15 PM.

2:11:20 PM

JOE MASTERS, Commissioner Designee, Department of Public Safety, said he would primarily comment on what the department is doing that goes along with the intent and spirit of SB 19. The primary intent is to ensure public trust when the department is dealing with internal discipline issues or investigating improper conduct of employees. Early in his tenure he identified the need to change some internal policies and procedures and internal structure on how the department addresses citizen complaints about the conduct of department employees. In the past there wasn't a good mechanism to track or manage complaints and often the investigations were conducted by employees who were not in the area where the complaint was filed. These practices created inconsistency and provided too little feedback to the citizen who filed the complaint.

In early 2009 he started the process to open the Office of Professional Standards for the purpose of addressing these issues. Initially the office will be staffed by two investigators who will be responsible for investigating

misconduct of officers within the Alaska State Troopers, Alaska Wildlife Troopers, and other divisions within DPS. They also will be responsible for tracking all complaints of employee conduct, regardless of whether that unit investigates the complaint or not.

2:15:00 PM

COMMISSIONER MASTERS said they're in the process of identifying software that will allow the unit to track and manage complaints as they come in. It will also provide department supervisors and managers an early warning mechanism identify an employee who is a potential future problem. This will allow conduct and training issues to be dealt with early-on and potentially save employees who are worth holding on to.

CHAIR FRENCH asked what he sees the Office of Professional Standards doing with respect to the issues of telling the complainant the status of the investigation and providing feedback to the complainant about the result of the investigation.

COMMISSIONER MASTERS replied he believes those issues can be handled within a policy structure of the unit. A project manager currently is working to stand up the unit and soon will start to write new and rewrite existing policies to address the issues of complaints coming in and reporting back to the complainant.

2:17:49 PM

CHAIR FRENCH noted that an issue that's come to his attention from the perspective of the troopers, the PSEA union, and APD officers is that if feedback on a complaint is too clear and specific, it may have negative repercussions to the officer through the defense and prosecution process. He asked if that's been a concern as he's developed internal policies.

COMMISSIONER MASTERS said that is a concern he has, particularly when a mistake was made early in an officer's career and that behavior was corrected. He's also concerned about the potential for the public to be misinformed if a complainant is found to be only partially valid.

2:20:50 PM

CHAIR FRENCH asked if he anticipates that the internal policies of the Office of Professional Standards will be reduced to a written policy document.

COMMISSIONER MASTERS said yes.

CHAIR FRENCH asked when the policies will be in writing.

COMMISSIONER MASTERS replied he anticipates a draft policy manual will be available within three months.

[2:22:06 PM](#)

SENATOR THERRIAULT asked if there will be any provision for the complainant to find out what remedy was assessed in cases where their complaint has been found to be valid.

COMMISSIONER MASTERS explained that all discipline or action taken against an employee is currently part of their confidential personnel record. The policies that the professional standards unit puts forth will conform to the law. Complainants won't be informed of the specific action that was taken against an employee. The generic response will be that an investigation was undertaken and appropriate action was taken.

[2:23:26 PM](#)

SENATOR THERRIAULT asked if that level of protection is provided only to police officer or to all state employees.

COMMISSIONER MASTERS replied he understands that is a general protection afforded to all state employees.

SENATOR THERRIAULT mused about whether the public will be satisfied with the generic response that the complaint was found to be valid and appropriate action was taken.

CHAIR FRENCH said it's also easy to see the morass you wade into if more information is given and the complainant doesn't like the remedy.

COMMISSIONER MASTERS said he has two additional concerns. One relates to a complainant trying to escalate an action if they don't like the discipline that's been given. The other concern is that if the process is opened to allow complainants to appeal a decision, it potentially puts every complaint into a more formal process. It could be counterproductive to ensuring the public trust.

[2:25:50 PM](#)

SENATOR THERRIAULT said he doesn't see anything in the bill that would lead the complainant to believe he or she would have a right of appeal.

CHAIR FRENCH said that's a fair observation. His point is that there is a balance between making certain that the public has confidence in the disciplinary process that's levied against individuals who are empowered to arrest and use force against citizens. "It's an awesome grant of power and it has to be used very very carefully," he said. The citizens who are subject to that power have to know that "bad apples" are disciplined.

SENATOR THERRIAULT referred to the caution about a complaint following an officer throughout his or her career and asked if you wouldn't want to know about a so called bad apple.

CHAIR FRENCH replied that is the balance. There are officers you might want to cross examine if you're the subject of an arrest. On the other hand, having every disciplinary process be part of the public record may go farther than is desirable. He said he will hold the bill to look at what other states do and to allow the commissioner time to work out policy for running the department. "I have a strong desire to see something like this become law; on the other hand I want to be very careful about how we go about it," he said.

SENATOR THERRIAULT asked if there's anyway of knowing what the recommendation was for an officer who was investigated versus the final reprimand. Is it state law or personnel rules that led to that or something the union negotiated?

[2:28:34 PM](#)

CHAIR FRENCH said that's outside the confines of the bill and he would suggest he discuss the process with PSEA.

SENATOR THERRIAULT asked the commissioner if the union negotiates the final reprimand or if it's a statutory or regulatory process.

COMMISSIONER MASTERS clarified that he isn't giving a legal answer. He said there are statutes that cover what they can and can't say and there is language in employee contracts pertaining to what the processes can be.

CHAIR FRENCH announced he would hold SB 19 in committee for further consideration.

[2:30:07 PM](#)

There being no further business to come before the committee, Chair French adjourned the meeting at 2:30 PM.