

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 18, 2009

1:34 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

COMMITTEE CALENDAR

CS FOR HOUSE JOINT RESOLUTION NO. 17(JUD)
Urging the United States Congress to reject H.R. 45, the Blair Holt's Firearm Licensing and Record of Sale Act of 2009.

MOVED SCS CSHJR 17(JUD) OUT OF COMMITTEE

Confirmation Hearings:

Parole Board
Lonzo Henderson
CONFIRMATION ADVANCED

Judicial Conduct Commission
James Christopher Brown
CONFIRMATION ADVANCED

SENATE BILL NO. 59
"An Act relating to the operation of low-speed vehicles."
HEARD AND HELD

SENATE BILL NO. 73
"An Act relating to the use of headlights when operating a motor vehicle."
MOVED CSSB 73(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HJR 17
SHORT TITLE: OPPOSE H.R. 45 IN CONGRESS
SPONSOR(S): REPRESENTATIVE(S) HARRIS
02/11/09 (H) READ THE FIRST TIME - REFERRALS
02/11/09 (H) JUD

02/16/09 (H) JUD AT 1:00 PM CAPITOL 120
 02/16/09 (H) Moved CSHJR 17(JUD) Out of Committee
 02/16/09 (H) MINUTE(JUD)
 02/18/09 (H) JUD RPT CS(JUD) 6DP
 02/18/09 (H) DP: GRUENBERG, LYNN, COGHILL, HOLMES,
 GATTO, RAMRAS
 02/25/09 (H) TRANSMITTED TO (S)
 02/25/09 (H) VERSION: CSHJR 17(JUD)
 02/27/09 (S) READ THE FIRST TIME - REFERRALS
 02/27/09 (S) JUD
 03/16/09 (S) JUD AT 1:30 PM BELTZ 211
 03/16/09 (S) Moved SCS CSHJR 17(JUD) Out of
 Committee
 03/16/09 (S) MINUTE(JUD)
 03/18/09 (S) JUD AT 1:30 PM BELTZ 211

BILL: SB 59

SHORT TITLE: LOW- SPEED MOTOR VEHICLES

SPONSOR(s): SENATOR(s) STEDMAN

01/21/09 (S) PREFILE RELEASED 1/16/09
 01/21/09 (S) READ THE FIRST TIME - REFERRALS
 01/21/09 (S) TRA, JUD
 02/17/09 (S) TRA AT 1:00 PM BUTROVICH 205
 02/17/09 (S) Heard & Held
 02/17/09 (S) MINUTE(TRA)
 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 59(TRA) Out of Committee
 03/03/09 (S) MINUTE(TRA)
 03/05/09 (S) TRA RPT CS 4DP SAME TITLE
 03/05/09 (S) DP: KOOKESH, MEYER, DAVIS, PASKVAN
 03/18/09 (S) JUD AT 1:30 PM BELTZ 211

BILL: SB 73

SHORT TITLE: USE OF HEADLIGHTS REQUIRED

SPONSOR(s): SENATOR(s) MENARD

01/22/09 (S) READ THE FIRST TIME - REFERRALS
 01/22/09 (S) TRA, JUD
 03/03/09 (S) TRA AT 1:00 PM BUTROVICH 205
 03/03/09 (S) Moved SB 73 Out of Committee
 03/03/09 (S) MINUTE(TRA)
 03/05/09 (S) TRA RPT 4DP
 03/05/09 (S) DP: KOOKESH, DAVIS, MEYER, PASKVAN

03/18/09

(S)

JUD AT 1:30 PM BELTZ 211

WITNESS REGISTER

LONZO HENDERSON

Anchorage AK

POSITION STATEMENT: Nominee to the Parole Board.

JAMES CHRISTOPHER BROWN

Anchorage AK

POSITION STATEMENT: Nominee to the Judicial Conduct Commission.

WESTON EILER, Staff

to Senator Bert Stedman

Alaska Capitol Building

Juneau AK

POSITION STATEMENT: Introduced SB 59 on behalf of the sponsor.

ROGER HEALY, Chief Engineer

Department of Transportation & Public Facilities

Juneau AK

POSITION STATEMENT: Provided information related to SB 148.

GERALD HERBRANDSON, representing himself

Petersburg AK

POSITION STATEMENT: Stated support for SB 59.

MEGAN PASTERNAK, representing herself

Sitka AK

POSITION STATEMENT: Stated support for SB 59.

MICHAEL ROVIDO, Staff

to Senator Menard

Alaska Capitol Building

Juneau AK

POSITION STATEMENT: Introduced SB 73 on behalf of the sponsor.

ROY HOITE JR., representing himself

Homer AK

POSITION STATEMENT: Stated support for SB 73.

KURT SMITH, Traffic and Safety Engineer

Department of Transportation & Public Facilities

Juneau AK

POSITION STATEMENT: Provided information related to SB 73.

ACTION NARRATIVE

[1:34:34 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Wielechowski, Therriault and French.

HJR 17-OPPOSE H.R. 45 IN CONGRESS

[1:34:58 PM](#)

CHAIR FRENCH announced the consideration of HJR 17. He explained that the committee amended and reported the resolution from committee at the last meeting, but there was an error in the amendment. He asked for a motion to rescind the action to report the bill from committee.

SENATOR WIELECHOWSKI moved to rescind the action to report SCS CSHJR 17(JUD) from committee. There being no objection, the bill was back before the committee.

CHAIR FRENCH asked for a motion to rescind the action to adopt Amendment 1.

SENATOR WIELECHOWSKI moved to rescind the action to adopt Amendment 1.

[1:35:30 PM](#)

SENATOR THERRIAULT asked if the committee passed an amendment or a committee substitute (CS).

CHAIR FRENCH said it was an amendment.

SENATOR THERRIAULT said he had no objection.

CHAIR FRENCH announced that without objection, the motion to rescind Amendment 1 has been adopted.

CHAIR FRENCH moved to adopt Amendment 2 as follows:

AMENDMENT 2

Page 2 , line 2:
Delete "felony"
Insert "misdemeanor"

There being no objection, Amendment 2 was adopted and the resolution was back before the committee.

SENATOR WIELECHOWSKI moved to report CS for HJR 17, as amended, from committee with individual recommendations and attached fiscal note. There was no objection and SCS CSHJR 17(JUD) moved from the Senate Judiciary Standing Committee.

At ease at 1:37 pm.

CONFIRMATION HEARINGS

CHAIR FRENCH announced the next order of business is the confirmation hearing for Mr. Lonzo Henderson to the Parole Board. He asked Mr. Lonzo to tell the committee about his background, qualifications and interest in the Parole Board.

[1:38:20 PM](#)

LONZO HENDERSON related that he retired from the Department of Corrections (DOC) after 21 years service. His last job was Deputy Compact Administrator with the Division of Community Corrections. The division name has since changed to probation and parole. He started as a line officer and was promoted up through the ranks. He believes in the department's mission and likes the direction it has taken with its reentry program and bringing back some of the substance abuse programs.

CHAIR FRENCH asked if he has appeared in hearings before the Parole Board.

MR. HENDERSON said yes, during the 10 years he was a line officer.

CHAIR FRENCH observed that the Parole Board meets as many as 150 days a year and asked if he's aware of that commitment.

[1:41:50 PM](#)

MR. HENDERSON said yes; he's actually been participating in hearings since January.

CHAIR FRENCH asked if it's accurate to say that based on his work experience he's in the position to have heard it all.

MR. HENDERSON said no; he's still learning but he does bring some experience to the table.

CHAIR FRENCH asked if the board meets only in Anchorage or if it travels.

MR. HENDERSON explained that hearings recently were held in Fairbanks, next month the board will travel to Arizona, and a trip is planned for Seward in May.

CHAIR FRENCH asked if the board meets face-to-face with the prisoner before making a decision about whether or not to grant parole.

MR. HENDERSON explained that there are several different kinds of paroles. For discretionary paroles some of the hearings are telephonic and some are face-to-face.

CHAIR FRENCH asked if he is generally happy with the direction the Parole Board has taken in the last several years.

MR. HENDERSON said there's always opportunity for improvement, but in large part he's pleased. He mentioned the new executive director and said he likes that he is using technology to enhance the board's mission.

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CHAIR FRENCH found no further questions and asked if he had concluding remarks.

MR. HENDERSON said it is a privilege to testify before the committee. He believes in the board's mission to protect the public and he would be delighted to serve if confirmed.

CHAIR FRENCH told Mr. Henderson that the committee members would sign the report and forward his name to the full legislature for confirmation or rejection. He solicited a motion.

SENATOR WIELECHOWSKI moved to advance the name Lonzo Henderson for appointment to the Parole Board for consideration by the full Legislature. There was no objection.

[1:46:17 PM](#)

CHAIR FRENCH announced the committee next would hear from Chris Brown. He asked him to tell the committee about the position he is seeking and his background.

JAMES CHRISTOPHER BROWN, nominee to the Judicial Conduct Commission, said he moved to Alaska 5 years ago, and has worked in the telecommunications field for more than 30 years. He is interested in serving as a non-legal member of the Judicial Conduct Commission and believes he will add a balanced view to

support the redress of citizens and provide an environment for judges and justices to feel confident in their actions.

[1:48:29 PM](#)

CHAIR FRENCH noted that he works for AT&T Alascom and asked if he has had the opportunity to visit Juneau.

MR. BROWN said he visits Juneau several times a year. Most recently he and his longtime associate, Mr. Felix, hosted the legislative night at Perseverance Theatre.

CHAIR FRENCH informed the committee that the Judicial Conduct Commission is a nine member board, six of which are appointed by the governor. Three are public members who are not judges, retired judges or a member of the state bar, and three are attorneys who have practiced law in Alaska for ten years. The other three members are judges or justices who are elected by the judges and justices of the state courts.

[1:50:02 PM](#)

SENATOR WIELECHOWSKI asked why he selected this particular board and what he hopes to accomplish.

MR. BROWN said he hopes to provide a fair and safe sounding board. He's as concerned about the wellbeing of the judges and justices who may feel pressure due to public opinion as he is with the citizenry who bring redress against a member of the judiciary. Serving on this board is an opportunity to leverage his strengths and interests in a way that would be of service to the state and the people of Alaska.

SENATOR WIELECHOWSKI asked if he has an opinion on how judges are appointed in Alaska.

MR. BROWN replied he doesn't know the details to offer a fully thoughtful opinion, but it's refreshing that the process is public.

[1:52:08 PM](#)

SENATOR WIELECHOWSKI asked if he has an opinion on whether or not there should be changes to the way judges are appointed in Alaska.

MR. BROWN replied he doesn't have an opinion.

SENATOR WIELECHOWSKI asked if he has no opinion at all.

MR. BROWN replied he hasn't seen or paid attention to that specific process enough to feel there ought to be a different one.

SENATOR WIELECHOWSKI asked if he has talked to others about the way judges are appointed in Alaska.

MR. BROWN said no; he's gotten information through the media.

SENATOR WIELECHOWSKI noted that Mr. Brown is on the board of directors of an organization that is actively working to change the way judges are appointed in this state and asked him if he has discussed that in his role as a board member.

[1:53:19 PM](#)

MR. BROWN said that in the 18 months he's served on the Alaska Family Council he hasn't been asked to provide specific input on that issue. "My involvement in that part of that board has been fairly quiet since I'm new ... to the state," he added.

SENATOR WIELECHOWSKI asked his philosophy on disciplining judges.

MR. BROWN said his understanding is that the commission doesn't set the rules so much as it tries to determine if in fact there has been a breach of responsibility by a justice or judge. In the event that there is a breach, the entire commission needs to take some sort of action. But if it's shown that the judge or justice has not breached a responsibility, that information needs to be as publicly communicated as the opposite, he said.

[1:54:48 PM](#)

SENATOR WIELECHOWSKI asked if he agrees that the way that judges rule on issues should have no bearing on whether or not they are disciplined.

MR. BROWN said he agrees to the extent that he understands all the complexities of the answer. Administering discipline to a justice or judge has more to do with the behavior surrounding the case than disagreeing with the outcome of a case and therefore agreeing with someone who might complain against a judge or justice, he said.

SENATOR WIELECHOWSKI said he doesn't want to see people on the judicial council who administer discipline because they disagree with a ruling. "If they do something inappropriate or that is illegal or unethical, absolutely they should be disciplined." He

asked if he would agree that the judge or justice should not be disciplined if you merely disagree with their rulings.

[1:55:54 PM](#)

MR. BROWN said he agrees wholeheartedly. "I would suggest that everyone on the commission either has or would develop opinions perhaps about the proper judgment in a case and so we all have to put that aside as we try to deal with the particular task that we're given," he said.

CHAIR FRENCH, finding no further questions, thanked Mr. Brown for stepping forward to serve the public and solicited a motion.

[1:56:37 PM](#)

SENATOR THERRIAULT moved to advance the name James Christopher Brown for appointment to the Judicial Conduct Commission for consideration by the full Legislature. There was no objection.

At ease at 1:56:54 PM.

SB 59-LOW- SPEED MOTOR VEHICLES

[1:58:13 PM](#)

CHAIR FRENCH announced the consideration of SB 59. [Before the committee was CSSB 59 (TRA).]

WESTON EILER, Staff to Senator Bert Stedman, said SB 59 would amend Alaska statute to allow low-speed electric vehicles access on certain roads with a posted speed limit of 45 mph or less. rather than the current 35 mph. Federal regulation defines low-speed vehicles as those that travel no faster than 25 mph. The bill was drafted to accommodate the growing use of low-speed vehicles in small communities by expanding the miles of road these vehicles can access. The sponsor worked the DOT to address some of the potential issues that might arise by having low-speed vehicles in large urban areas. As such the CS limits the expanded access to communities with a maximum population of 25,000 and not connected by road to Anchorage or Fairbanks. The bill also includes an opt-in provision for communities.

[2:00:17 PM](#)

The Department of Transportation estimates that the bill would open an additional 30 miles of road in Southeast Alaska communities to low-speed vehicles. For example, the residents of Wrangell could drive low-speed vehicles to their airport. SB 59 promotes sustainable cost-effective transportation and at the same time allows local communities substantial flexibility.

SENATOR WIELECHOWSKI asked the definition of a low-speed vehicle.

MR. EILER explained that they are defined in federal regulation, but the gist is that they can travel no faster than 25 mph. Because of their slow speed they aren't required to have certain safety features such as airbags. In response to a question, he said a Toyota hybrid is not a low-speed vehicle.

[2:01:52 PM](#)

SENATOR THERRIAULT asked if he knows how many low-speed vehicles are in the state because they have to be registered with the Division of Motor Vehicles (DMV).

MR. EILER said yes they are registered with DMV; 19 are currently registered and there's a dealer in Petersburg.

SENATOR THERRIAULT asked what crash-test standards they have.

MR. EILER offered to provide that information.

CHAIR FRENCH noted that Mr. Healy with the Department of Transportation and Public Facilities (DOTPF) and Mr. Springer with DMV are available to answer questions.

SENATOR THERRIAULT asked if low-speed vehicles could operate in the core of Fairbanks or Anchorage if the communities wanted to allow that.

MR. EILER said he believes that by local ordinance they would be allowed, but he would defer to the drafters.

[2:04:06 PM](#)

ROGER HEALY, Chief Engineer, Department of Transportation and Public Facilities (DOTPF), explained that the current statute allows low-speed vehicles on roadways statewide that have posted speed limits of 35 mph or less. He further explained that the existing regulations allow a low-speed vehicle to cross highways with posted speed limits of greater than 35 mph if the crossing is to access another highway that is authorized for low-speed vehicles.

[2:05:16 PM](#)

SENATOR THERRIAULT asked if the senior population in the City of North Pole could drive one of these vehicles to the grocery

store. They would not get on the Richardson Highway so the municipality could make the decision to opt in.

MR. HEALY said not in that case because of the connection to the Fairbanks and Anchorage road network.

SENATOR WIELECHOWSKI observed that low-speed vehicles would not be allowed in Huston or Willow or Big Lake for the same reason. They're connected to the Fairbanks and Anchorage road network.

MR. HEALY said that's correct.

SENATOR WIELECHOWSKI asked what low-speed vehicles are typically used for.

MR. HEALY said he understands they are used for short point-to-point trips such as from home to the store and back.

SENATOR WIELECHOWSKI asked the rationale behind the provision that excludes these vehicles in communities that are connected by road to Anchorage or Fairbanks.

[2:07:19 PM](#)

MR. HEALY explained that the provision is a result of discussion between the department and the sponsor. DOTPF's main concern was that data shows that accident potential increases as vehicle speed differential increases. Vehicles traveling on roads that are posted at 45 mph often travel much faster than that. Another concern is that these vehicles would create congestion problems on busy highways and therefore would not contribute to the capacity of the roadway.

CHAIR FRENCH noted that the bill is aimed at Sitka, Petersburg, Wrangell and any little island communities, and asked what other communities would be affected.

SENATOR THERRIAULT said they'd be allowed in all of rural Alaska that isn't connected.

[2:09:54 PM](#)

MR. HEALY added that the language in the CS has an opt-in provision for local communities with a population of less than 25,000. In the unorganized borough these vehicles are allowed on highways outside city boundaries. Cities within the unorganized borough such as Nome and Bethel retain the option.

CHAIR FRENCH asked if there is a list of communities that would qualify under the exception in subparagraph (B). After some discussion he deferred his question.

[2:12:11 PM](#)

SENATOR THERRIAULT noted that Northway, which is a community that is off the Alaska Highway, wouldn't be able to have these vehicles.

CHAIR FRENCH said Talkeetna would be similarly excluded.

MR. HEALY explained that there isn't a restriction on their use in either of those communities as long as the existing speed limit is below 35 mph. It's the same for Anchorage or Fairbanks; the restriction applies just if the speed limit is greater than 35 mph.

[2:13:30 PM](#)

GERALD HERBRANDSON, representing himself, stated support for SB 59. His company, Solar Wind, specializes in alternative energy products including electric vehicles. In Petersburg there are 9 of these vehicles and about 19 statewide. Basically these are small slow speed cars that look somewhat similar to a VW bug. One difference is that they don't have certain safety features such as airbags. In small communities most trips are to the grocery store, the post office or the school and that is hard on gasoline or diesel powered engines because they don't warm up. In contrast, electric vehicles are designed for this kind of trip. They're simple, efficient, and economical to operate, he said.

CHAIR FRENCH asked what his cars cost.

MR. HERBRANDSON said between \$16,000 and \$18,000. Operational costs are minimal and maintenance is low.

[2:16:58 PM](#)

SENATOR THERRIAULT asked where the vehicles are manufactured.

MR. HERBRANDSON said he sells Miles vehicles. They are Japanese vehicles that are assembled in China, modified in California and adapted for use in Alaska.

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MEGAN PASTERNAK, representing herself from Sitka, said she has been a low-speed electric vehicle owner and driver for more than a year. SB 59 is about more than just cheap transportation; it

is a much needed step to help eliminate pollution and protect the environment. She is a very conscientious driver and is sure other low-speed vehicle drivers are similarly conscientious. Her understanding of why they are safe is that they are lightweight and "when involved in a crash they tend to bounce away rather than take the full impact force."

[2:20:50 PM](#)

CHAIR FRENCH closed public testimony and announced he would hold SB 59 in committee.

SB 73-USE OF HEADLIGHTS REQUIRED

[2:21:30 PM](#)

CHAIR FRENCH announced the consideration of SB 73.

MICHAEL ROVIDO, Staff to Senator Menard, said SB 73 would require the use of vehicle headlights at all times when operating on Alaska roads. This addresses a key goal of the Alaska Strategic Highway Safety Plan. Canada, Norway and Sweden saw collisions drop after passing headlight laws and this caused the sponsor to take a serious look at doing this in Alaska.

CHAIR FRENCH said he supports the bill.

[2:24:14 PM](#)

ROY HOITE JR., representing himself from Homer, described SB 73 as a necessary bill. Since 2004 cars come equipped with daylight running lights and people are becoming more dependent on their use. You get surprised when they aren't on, he said. It's a safety factor that has proven itself on the Seward Highway.

[2:27:56 PM](#)

CHAIR FRENCH closed public testimony and asked about the highway signs that would be erected should the bill pass.

KURT SMITH, Traffic and Safety Engineer, Department of Transportation and Public Facilities (DOTPF), said should this become law DOTPF believes that it's only fair to notify drivers. Signs would be posted at points of entry including borders, airports, and marine terminals. They estimate that 40 signs would be necessary at a total cost of \$135,000. DOTPF could come up with \$40,000 so the fiscal note is \$95,000.

CHAIR FRENCH asked if the sponsor would agree to a January 1, 2010 effective date to provide time for DOTPF to put up the signs and the public to become aware of the law.

MR. SMITH said DOTPF could have the signs up by October 1 and believes it would be advantageous to institute it then because people use their headlights at that time of year.

CHAIR FRENCH proposed conceptual Amendment 1 to add an effective date of October 1, 2009.

[2:30:46 PM](#)

CHAIR FRENCH found no discussion or objection and announced that conceptual Amendment 1 passes. Finding no further questions or discussion he asked the will of the committee.

SENATOR WIELECHOWSKI moved to report SB 73, as amended, from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 73(JUD) moved from the Senate Judiciary Standing Committee.

[2:31:49 PM](#)

There being no further business to come before the committee, Chair French adjourned the Senate Judiciary Standing Committee meeting at 2:31 pm.