

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

April 14, 2010

8:30 a.m.

**MEMBERS PRESENT**

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Dennis Egan  
Senator Lesil McGuire  
Senator John Coghill

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 408(JUD)

"An Act relating to misconduct involving weapons."

- MOVED CSHB 408(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 251(JUD)

"An Act relating to liens on vehicles and to towing, transporting, and storage of vehicles; and providing for an effective date."

- MOVED CSHB 251(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 253

"An Act relating to the time periods affecting certain liens related to providing labor, material, service, or equipment to real property, including buildings and other improvements."

- MOVED HB 253 OUT OF COMMITTEE

CS FOR SS FOR HOUSE BILL NO. 36(FIN) AM

"An Act relating to ballot initiative proposal applications, to ballot initiatives and to those who file or organize for the purpose of filing a ballot initiative proposal, and to election pamphlet information relating to certain propositions."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 408

SHORT TITLE: MISCONDUCT INVOLVING WEAPONS

SPONSOR(s): JUDICIARY

02/26/10 (H) READ THE FIRST TIME - REFERRALS  
02/26/10 (H) JUD, FIN  
03/12/10 (H) JUD AT 1:00 PM CAPITOL 120  
03/12/10 (H) Heard & Held  
03/12/10 (H) MINUTE(JUD)  
03/24/10 (H) JUD AT 1:00 PM CAPITOL 120  
03/24/10 (H) <Bill Hearing Rescheduled to 03/25/10>  
03/25/10 (H) JUD AT 1:00 PM CAPITOL 120  
03/25/10 (H) Moved CSHB 408(JUD) Out of Committee  
03/25/10 (H) MINUTE(JUD)  
03/26/10 (H) JUD RPT CS(JUD) 2DP 2NR  
03/26/10 (H) DP: LYNN, RAMRAS  
03/26/10 (H) NR: HERRON, GATTO  
04/08/10 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
04/08/10 (H) Moved CSHB 408(JUD) Out of Committee  
04/08/10 (H) MINUTE(FIN)  
04/09/10 (H) FIN RPT CS(JUD) 9DP  
04/09/10 (H) DP: THOMAS, GARA, DOOGAN, JOULE,  
N.FOSTER, KELLY, SALMON, STOLTZE,  
HAWKER  
04/10/10 (H) TRANSMITTED TO (S)  
04/10/10 (H) VERSION: CSHB 408(JUD)  
04/11/10 (S) READ THE FIRST TIME - REFERRALS  
04/11/10 (S) JUD  
04/12/10 (S) JUD AT 8:30 AM BUTROVICH 205  
04/12/10 (S) Heard & Held  
04/12/10 (S) MINUTE(JUD)

BILL: HB 251

SHORT TITLE: VEHICLE LIENS/TOWING/STORAGE/TRANSPORT

SPONSOR(s): RAMRAS

01/08/10 (H) PREFILE RELEASED 1/8/10  
01/19/10 (H) READ THE FIRST TIME - REFERRALS  
01/19/10 (H) STA, JUD  
03/09/10 (H) STA AT 8:00 AM CAPITOL 106  
03/09/10 (H) Heard & Held  
03/09/10 (H) MINUTE(STA)  
03/11/10 (H) STA RPT 1DP 4NR  
03/11/10 (H) DP: LYNN  
03/11/10 (H) NR: JOHNSON, GATTO, GRUENBERG, PETERSEN  
03/11/10 (H) STA AT 8:00 AM CAPITOL 106

03/11/10 (H) Moved Out of Committee  
 03/11/10 (H) MINUTE(STA)  
 03/25/10 (H) JUD AT 1:00 PM CAPITOL 120  
 03/25/10 (H) Moved CSHB 251(JUD) Out of Committee  
 03/25/10 (H) MINUTE(JUD)  
 03/26/10 (H) JUD RPT CS(JUD) NT 2DP 3NR 1AM  
 03/26/10 (H) DP: LYNN, RAMRAS  
 03/26/10 (H) NR: HERRON, DAHLSTROM, HOLMES  
 03/26/10 (H) AM: GATTO  
 04/01/10 (H) TRANSMITTED TO (S)  
 04/01/10 (H) VERSION: CSHB 251(JUD)  
 04/02/10 (S) READ THE FIRST TIME - REFERRALS  
 04/02/10 (S) STA, JUD  
 04/08/10 (S) STA RPT 4DP 1NR  
 04/08/10 (S) DP: MENARD, MEYER, PASKVAN, KOOKESH  
 04/08/10 (S) NR: FRENCH  
 04/08/10 (S) STA AT 9:00 AM BELTZ 105 (TSBldg)  
 04/08/10 (S) Moved CSHB 251(JUD) Out of Committee  
 04/08/10 (S) MINUTE(STA)  
 04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205  
 04/09/10 (S) Heard & Held  
 04/09/10 (S) MINUTE(JUD)

BILL: HB 253

SHORT TITLE: MECHANIC/MATERIALMEN LIENS

SPONSOR(s): RAMRAS

01/08/10 (H) PREFILE RELEASED 1/8/10  
 01/19/10 (H) READ THE FIRST TIME - REFERRALS  
 01/19/10 (H) L&C, JUD  
 03/01/10 (H) L&C AT 3:15 PM BARNES 124  
 03/01/10 (H) Moved Out of Committee  
 03/01/10 (H) MINUTE(L&C)  
 03/04/10 (H) L&C RPT 5DP  
 03/04/10 (H) DP: LYNN, BUCH, CHENAULT, T.WILSON,  
 OLSON  
 03/12/10 (H) JUD AT 1:00 PM CAPITOL 120  
 03/12/10 (H) Moved Out of Committee  
 03/12/10 (H) MINUTE(JUD)  
 03/15/10 (H) JUD RPT 6DP  
 03/15/10 (H) DP: LYNN, GRUENBERG, HERRON, DAHLSTROM,  
 GATTO, RAMRAS  
 03/26/10 (H) TRANSMITTED TO (S)  
 03/26/10 (H) VERSION: HB 253  
 03/29/10 (S) READ THE FIRST TIME - REFERRALS  
 03/29/10 (S) L&C, JUD  
 04/06/10 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

04/06/10 (S) Moved HB 253 Out of Committee  
04/06/10 (S) MINUTE(L&C)  
04/07/10 (S) L&C RPT 4DP  
04/07/10 (S) DP: PASKVAN, MEYER, THOMAS, BUNDE  
04/09/10 (S) JUD AT 8:30 AM BUTROVICH 205  
04/09/10 (S) Heard & Held  
04/09/10 (S) MINUTE(JUD)

BILL: HB 36

SHORT TITLE: INITIATIVES: CONTRIBUTIONS/ PROCEDURES  
SPONSOR(s): JOHANSEN, MILLETT, P.WILSON

01/20/09 (H) PREFILE RELEASED 1/9/09  
01/20/09 (H) READ THE FIRST TIME - REFERRALS  
01/20/09 (H) STA, JUD  
03/25/09 (H) SPONSOR SUBSTITUTE INTRODUCED  
03/25/09 (H) READ THE FIRST TIME - REFERRALS  
03/25/09 (H) JUD, FIN  
04/06/09 (H) JUD AT 8:00 AM CAPITOL 120  
04/06/09 (H) Heard & Held  
04/06/09 (H) MINUTE(JUD)  
04/06/09 (H) JUD AT 1:00 PM CAPITOL 120  
04/06/09 (H) Heard & Held  
04/06/09 (H) MINUTE(JUD)  
04/13/09 (H) JUD AT 8:00 AM CAPITOL 120  
04/13/09 (H) Heard & Held  
04/13/09 (H) MINUTE(JUD)  
04/15/09 (H) JUD AT 1:00 PM CAPITOL 120  
04/15/09 (H) Moved CSSSHB 36(JUD) Out of Committee  
04/15/09 (H) MINUTE(JUD)  
04/16/09 (H) JUD RPT CS(JUD) 1DP 3DNP 1NR 1AM  
04/16/09 (H) DP: COGHILL  
04/16/09 (H) DNP: HOLMES, GRUENBERG, RAMRAS  
04/16/09 (H) NR: DAHLSTROM  
04/16/09 (H) AM: LYNN  
04/18/09 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
04/18/09 (H) Heard & Held  
04/18/09 (H) MINUTE(FIN)  
02/08/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
02/08/10 (H) Heard & Held  
02/08/10 (H) MINUTE(FIN)  
03/15/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/15/10 (H) Heard & Held  
03/15/10 (H) MINUTE(FIN)  
03/16/10 (H) FIN AT 9:00 AM HOUSE FINANCE 519  
03/16/10 (H) Heard & Held  
03/16/10 (H) MINUTE(FIN)

03/16/10 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
03/16/10 (H) Moved CSHB 36(FIN) Out of Committee  
03/16/10 (H) MINUTE(FIN)  
03/19/10 (H) FIN RPT CS(FIN) NT 6DP 4AM  
03/19/10 (H) DP: THOMAS, AUSTERMAN, KELLY,  
FAIRCLOUGH, STOLTZE, HAWKER  
03/19/10 (H) AM: GARA, DOOGAN, JOULE, N.FOSTER  
04/11/10 (H) TRANSMITTED TO (S)  
04/11/10 (H) VERSION: CSSSHB 36(FIN) AM  
04/12/10 (S) READ THE FIRST TIME - REFERRALS  
04/12/10 (S) JUD, FIN  
04/13/10 (S) JUD AT 9:15 AM BUTROVICH 205  
04/13/10 (S) Heard & Held  
04/13/10 (S) MINUTE(JUD)  
04/14/10 (S) JUD AT 8:30 AM BUTROVICH 205

**WITNESS REGISTER**

REPRESENTATIVE JAY RAMRAS  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of HB 253

ALPHEUS BULLARD, attorney  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, AK

**POSITION STATEMENT:** Answered questions related to HB 36.

SONIA CHRISTENSEN, staff  
to Representative Johansen  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Provided information about a House committee amendment to HB 36.

**ACTION NARRATIVE**

8:30:54 AM

**CHAIR HOLLIS FRENCH** called the Senate Judiciary Standing Committee meeting to order at 8:30 a.m. Present at the call to order were Senators Egan, Coghill and French. Senators Wielechowski and McGuire arrived soon thereafter.

**HB 408-MISCONDUCT INVOLVING WEAPONS**

[8:31:22 AM](#)

CHAIR FRENCH announced the consideration of HB 408. It was heard previously and testimony was taken.

SENATOR COGHILL moved to report CS for HB 408(JUD) from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 408(JUD) moved from the Senate Judiciary Standing Committee.

**HB 251-VEHICLE LIENS/TOWING/STORAGE/TRANSPORT**

[8:32:25 AM](#)

CHAIR FRENCH announced the consideration of HB 251. It was heard previously and public testimony was taken.

SENATOR COGHILL said his questions were answered and he supports the bill.

SENATOR WIELECHOWSKI and SENATOR MCGUIRE joined the committee.

SENATOR WIELECHOWSKI moved to report HB 251 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSHB 251(JUD) moved from the Senate Judiciary Standing Committee.

**HB 253-MECHANIC/MATERIALMEN LIENS**

[8:33:46 AM](#)

CHAIR FRENCH announced the consideration of HB 253. It was previously heard.

REPRESENTATIVE JAY RAMRAS, sponsor of HB 253, thanked the committee for its cooperation and assistance on the bill.

CHAIR FRENCH opined that there has been a good working relationship between the bodies for the last couple of years.

SENATOR WIELECHOWSKI moved to report HB 253 from committee with individual recommendations and attached fiscal note(s). There being no objection, HB 253 moved from the Senate Judiciary Standing Committee.

At Ease from 8:35 a.m. to 8:38 a.m.

**HB 36-INITIATIVES: CONTRIBUTIONS/ PROCEDURES**

[8:37:57 AM](#)

CHAIR FRENCH announced the consideration of HB 36. The committee heard an overview of the bill yesterday and public testimony was taken. He welcomed Lieutenant Governor Campbell and noted that he was available to answer questions. [CSSSHB 36(FIN) AM was before the committee.]

CHAIR FRENCH moved to adopt Amendment 1, labeled 26-LS0197\CA.2, and objected for the purpose of discussion. He explained that it clarifies that the hearings on initiatives will be certified by the lieutenant governor and it narrows the scope of the work that the Legislature will do to review an initiative.

**AMENDMENT 1**

Page 7, lines 30 - 31:

Delete **"Review of initiatives certified by the lieutenant governor by standing committees of the legislature"**

Insert **"Legislative hearings on initiatives certified by the lieutenant governor"**

Page 8, line 3:

Delete "conduct reviews"

Insert "hold at least one hearing"

[8:39:20 AM](#)

CHAIR FRENCH moved to adopt a conceptual amendment to Amendment 1 on page 8, line 3, to clarify that the presiding officers of the House and Senate shall select the standing committee that will hear the initiative.

SENATOR WIELECHOWSKI asked if on page 8, line 1, the phrase "shall consider an initiative" will be changed to "have a hearing".

CHAIR FRENCH agreed the language should be consistent throughout the bill.

Finding no objection to the conceptual amendment, Chair French announced that it is adopted and that Amendment 1 is again before the committee.

SENATOR WIELECHOWSKI suggested it would be reasonable to add the language in subsection (c) on page 7, lines 16-17 to Section 15 of the bill.

CHAIR FRENCH agreed. Finding no further objection, he announced that Amendment 1, [as conceptually amended], is adopted.

[8:44:02 AM](#)

SENATOR MCGUIRE moved Amendment 2.

**AMENDMENT 2**

Page 8, line 1:

Delete "consider"

Insert "hold a hearing on"

There being no objection, Amendment 2 was adopted.

CHAIR FRENCH said Amendment 3, by Senator Wielechowski, is to add to Section 15, the language that is in subsection (c) of Section 12.

SENATOR WIELECHOWSKI suggested making it applicable to the whole chapter.

CHAIR FRENCH said he completely agrees with the idea of adding it to Section 15, but he'd want to hear from Mr. Bullard before going further than that.

[8:45:40 AM](#)

SENATOR WIELECHOWSKI moved to adopt conceptual Amendment 3.

**CONCEPTUAL AMENDMENT 3**

Add the following language to Section 15:

"Penalties for a violation of this section may not include removal of an initiative from the ballot."

SENATOR COGHILL objected. Noting that there isn't an affirmative penalty, he asked if the idea is to leave it open for other penalties.

CHAIR FRENCH asked Mr. Bullard to comment.

ALPHEUS BULLARD, attorney, Legislative Legal Services, Legislative Affairs Agency, said he wouldn't advise this language being applied anywhere. It's clear in the Constitution that the only way that an initiative can be removed from the ballot is if the Legislature passes a substantially similar measure or if a court finds that it's an unconstitutional use of

the initiative power. Including the proposed language throughout the bill obscures that fact, he said.

CHAIR FRENCH summarized that Mr. Bullard is cautioning against the Legislature inserting itself statutorily when the Constitution already gives clear direction.

MR. BULLARD agreed that is his position.

SENATOR WIELECHOWSKI questioned the harm in including the provision.

MR. BULLARD replied the fact that the language is in Section 12 begs the question of why it wasn't included in Section 15 and others. "While it won't change what the constitution provides, I think that it obscures that reality," he said.

SENATOR WIELECHOWSKI said that's why he advocates applying it to the whole chapter.

CHAIR FRENCH reviewed Article 11 of the Alaska Constitution

[8:49:24 AM](#)

SENATOR WIELECHOWSKI offered to withdraw the amendment if the committee wanted to think about it overnight.

CHAIR FRENCH asked Miss Christensen to tell the committee about the House debate on this provision.

SONIA CHRISTENSEN, staff to Representative Johansen, explained that the language in Section 12, subsection (c) was conceptual added in the House Finance Committee. Representative Gara wanted to make it clear that "funny business" by the Legislature or the lieutenant governor would not result in an initiative being defaulted from the ballot. The sponsor doesn't object to adding the provision to Section 15, she said.

CHAIR FRENCH asked if Representative Gara made the conceptual amendment with the benefit of counsel from Legislative Legal Services.

MS CHRISTENSEN replied she wasn't sure.

CHAIR FRENCH asked Senator Wielechowski if he would withdraw the amendment because Senator Coghill had to leave due to another commitment.

SENATOR WIELECHOWSKI said the point that it could set off legal challenges if it's in one section and not another is well taken, which is why he would urge consistency.

CHAIR FRENCH said he's considered removing the provisions about a public hearing and hearings by the Legislature because some people see it as an impediment to the initiative process.

[8:52:54 AM](#)

SENATOR WIELECHOWSKI withdrew conceptual Amendment 3.

SENATOR MCGUIRE asked the committee to consider adding a severability clause.

CHAIR FRENCH asked Mr. Bullard to remind the committee about severability.

MR. BULLARD advised that there is a severability clause in Title 1 of the statutes, so while it would do no harm to include it, it's not necessary.

CHAIR FRENCH said the basic idea behind Amendment 4 is to ask the lieutenant governor to make reasonable efforts to broadcast the hearings so that they reach people who aren't living in population centers.

[8:55:34 AM](#)

CHAIR FRENCH moved Amendment 4, labeled 26-LS0197\CA.5.

#### **AMENDMENT 4**

Page 7, following line 17:

Insert a new subsection to read:

"(d) If the lieutenant governor determines that it is technologically and economically feasible, the division shall provide a live audio and video broadcast of each hearing held under (a) of this section on the division's Internet website."

There being no objection, Amendment 4 was adopted.

CHAIR FRENCH, noting that HB 36 was drafted before the Citizens United decision, asked Mr. Bullard if the language could be tightened by substituting the word "person" for "individual, person, nongroup entity, or group" throughout the bill.

MR. BULLARD cautioned that he hadn't had much time for review, but the language could be amended a little in sections 1 and 6. Section 1, page 1, lines 6 and 8, could read "every person" on each line. Section 6, page 3, line 7, could read "An initiative committee or other person".

CHAIR FRENCH asked if he agrees that this changes nothing; it simply makes it more concise.

MR. BULLARD replied he was hesitant to say that's completely true because he hadn't given it the time to know for certain.

CHAIR FRENCH said he wouldn't offer the amendment just yet, but it's on his mind.

CHAIR FRENCH announced he would hold HB 36 in committee for further work.

[8:58:18 AM](#)

There being no further business to come before the committee, Chair French adjourned the meeting at 8:58 a.m.