

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 9, 2010

2:03 p.m.

MEMBERS PRESENT

Senator Joe Paskvan, Chair
Senator Joe Thomas, Vice Chair
Senator Bettye Davis
Senator Kevin Meyer

MEMBERS ABSENT

Senator Con Bunde

COMMITTEE CALENDAR

SENATE BILL NO. 247

"An Act extending the termination date of the Board of Pharmacy;
and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 248

"An Act extending the termination date of the Board of Marital
and Family Therapy; and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 117

"An Act requiring the Department of Revenue to set the minimum
price for cigarettes for sale by wholesalers and retailers; and
prohibiting a wholesaler or retailer from selling at wholesale
or retail cigarettes at a lower price than the price set by the
Department of Revenue."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 247

SHORT TITLE: EXTENDING BOARD OF PHARMACY

SPONSOR(S): SENATOR(S) OLSON

01/29/10 (S) READ THE FIRST TIME - REFERRALS

01/29/10 (S) L&C, FIN
02/09/10 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

BILL: SB 248

SHORT TITLE: EXTEND BD OF MARITAL & FAMILY THERAPY
SPONSOR(s): SENATOR(s) OLSON

01/29/10 (S) READ THE FIRST TIME - REFERRALS
01/29/10 (S) L&C, FIN
02/09/10 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

BILL: SB 117

SHORT TITLE: PRICE OF CIGARETTES
SPONSOR(s): SENATOR(s) MCGUIRE

02/20/09 (S) READ THE FIRST TIME - REFERRALS
02/20/09 (S) L&C, FIN
02/09/10 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JIM COLVER

Staff to Senator Olson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 247 for the sponsor.

PAT DAVIDSON, Auditor
Division of Legislative Audit
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Answered questions about SB 247 and SB 248.

JENNIFER STRICKLER, Operations Manager
Division of Corporations, Business and Professional Licensing
Department of Commerce, Community and Economic Development
(DCCED)

POSITION STATEMENT: Answered questions about SB 247 and SB 248.

TIM BENINTENDI
Staff to Senator Olson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 248 for the sponsor.

PATRICIA WHITE, Chair
Board of Marriage and Family Therapists

POSITION STATEMENT: Answered questions about SB 248.

ESTHER CHA
Aide to Senator McGuire
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Commented on SB 117 for the sponsor.

CLIFF CRAEMER, Vice President
Sales and Marketing
Northern Sales Company

POSITION STATEMENT: Strongly supported the CS for SB 117.

JOHN MAKAY, Sr. Vice President
Northwest Region
Costco Wholesale Corporation

POSITION STATEMENT: Supported SB 117.

ROGER HAMES, President
Hames Corporation
Sitka, AK

POSITION STATEMENT: Supported the CS for SB 117.

ACTION NARRATIVE

[2:03:56 PM](#)

CHAIR JOE PASKVAN called the Senate Labor and Commerce Standing Committee meeting to order at 2:03 p.m. Present at the call to order were Senators Meyer, Davis and Paskvan.

SB 247-EXTENDING BOARD OF PHARMACY

[2:05:54 PM](#)

CHAIR PASKVAN announced SB 247 to be up for consideration.

JIM COLVER, staff to Senator Olson, sponsor of SB 247, said this bill extends the Board of Pharmacy that will sunset on June 30, 2010. The fiscal note of \$130,300 is to pay staff, board per diem and transportation for three board meetings a year. The Legislative Budget and Audit Division recently completed an audit of the board and concluded that the termination date for the Board of Pharmacy should be extended until June 30, 2018. He noted that the termination date in SB 247 says June 30, 2015, and he said the sponsor wanted the committee to amend that date to align it with the audit recommendation of June 30, 2018.

[2:08:17 PM](#)

MR. COLVER said the audit also recommended that the department should improve administrative support (for various small accounting and staffing issues) and the department has responded that it is dealing with those issues. Additionally, it recommended that the board and staff need to work with the Office of the Governor to improve recruitment of qualified board applicants to ensure a full board.

He said SB 247 is supported by the Alaska Pharmacists Association.

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SENATOR THOMAS joined the committee.

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PAT DAVIDSON, Division of Legislative Audit, Legislative Affairs Agency, Alaska State Legislature, said she conducted an audit of the Board of Pharmacy and recommended extending it to June 30, 2018, an eight-year extension as provided by law. The audit also found that administrative support by the department was insufficient for the board to get its work done; so this needs some correction. She remarked that her audits have found this issue as well as others exist with most of the other boards.

Another issue, Ms. Davidson said, is that the Office of the Governor did not make timely appointments to the boards. These boards are voluntary and take peoples' time, and if a board doesn't have a full slate of members, that makes the other members work harder, which, in turn, decreases their willingness to be reappointed and makes it harder to get new members.

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The last was a technical issue, she said, that had to do with collaborative protocols. She explained that typically one doesn't go to a pharmacist to get an injection, but in certain circumstances a pharmacist in association with a physician will go through a collaborative protocol that allows the pharmacist to dispense a flu shot, for instance. She explained that regulations require that an written agreement between the physician and the pharmacist and it has to be submitted to the board. She found that those protocols were for one length of time - one year, but the board allowed that protocol to exist for two years. She recommended that the board limit itself to approving those protocols for a time limited to what is reached between the pharmacist and the physician.

CHAIR PASKVAN said he understands that the two requirements are that the doctors review the decisions made by the pharmacists at least once every three months and that the doctors would get the patient records. He asked if those protocols were the ones addressed in the audit.

MS. DAVIDSON answered yes. Regulations identify those things, but the board wasn't necessarily following all those regulations in approving the protocols.

CHAIR PASKVAN asked if some of the agreements were written for periods of time longer than the doctor had committed to and if that would result in the pharmacist dispensing flu shots beyond the period of time the doctor had agreed to.

MS. DAVIDSON replied that she didn't see any evidence of the protocols actually being enforced beyond the written agreement between the pharmacist and the physician. However, in reviewing those protocols the board should make sure that everything that is required by regulation be written into the protocols and that the board limits itself to adopting it for the timeframe that is in the written agreement.

CHAIR PASKVAN asked her to more fully explain the cooperative practice agreements.

MS. DAVIDSON responded that those agreements were required so that the physician could review the decisions made by the pharmacist at least once every three months and so patient records could be provided to the physician. She found those were not always specifically spelled out in the written agreement. In regard to the timeframe, either the practitioner or the pharmacist could be confused as to how long they would be allowed; so to avoid those sorts of confusion, it is important that the board go through the written cooperative agreement process. And then limit their approval of that for the time frame indicated in the written agreement.

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CHAIR PASKVAN asked if a template is followed for the protocols, whether it's for flu shots or something else, that is board approved and that regulations could be compared to.

MS. DAVIDSON replied there is no template established for those.

CHAIR PASKVAN asked if there is any reason they couldn't have a template to make it easier to compare protocols with the regulations.

MS. DAVIDSON said because the written agreements could cover a wide range of what the practitioners and pharmacists are comfortable in delegating, she didn't know if creating a template would necessarily be beneficial. Practitioners would probably change things to fit their individual circumstances.

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CHAIR PASKVAN found no questions on recommendation 1.

SENATOR MEYER commented that he had already heard SB 247 in the Legislative Budget and Audit Committee and he was very familiar with it.

CHAIR PASKVAN said recommendation 2 identified deficiencies and the first one was errors in license statistics; he asked her to more fully explain that.

MS. DAVIDSON responded that an annual report is prepared for each of the boards to give an idea of its activities. It identifies how many new licenses were issued, how many renewals there were; some boards that have license by credentials versus examination will break those out. They will also talk about non licensing statistics like investigations and actions taken as a result of investigations, for instance. She said that she would talk about this recommendation a lot because she has found different types of licensing statistics errors in different boards. This is one of the things she saw when verifying statistics that were included in annual reports.

CHAIR PASKVAN said a paragraph on page 8 addressed a key administrative staff member that was both unqualified and untrained. He asked how a key person could get that position.

MS. DAVIDSON deferred that answer to the department.

CHAIR PASKVAN asked if this board had more turnover than others.

MS. DAVIDSON replied that her experience with boards in general is that they have a higher turnover rate because they are relatively entry level positions and better opportunities are available elsewhere.

CHAIR PASKVAN said language on page 8 says "may provide policy makers with misleading information" and he wanted to know what types of information that would be.

MS. DAVIDSON explained that goes back to the annual reports; various boards have issues come up that may rise to a very high level or may be dealt with at a board level. As an example, if insufficient pharmacists were a concern, and if their statistics were understated by 100 or 200 percent, a situation would be created where someone who is relying on that information would come to a bad conclusion. Or if someone was using the annual reports to monitor numbers of physician assistants or EMTs for the Medical Board, for instance, or to correlate the relationship between the number of licensees and what the university is doing, when you have bad statistics, you will get bad policy information. What she was trying to express is that these data get published and people will use it. She asserted also, "It comes from a state agency; it should be good data."

CHAIR PASKVAN asked if misleading information extends to budgeting issues and if turnover of key administrative staff members was one of her concerns.

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MS. DAVIDSON replied that she didn't look at staffing in particular; boards and commissions are financially self supporting. Their conclusion with regards to the Board of Pharmacy is that it has no financial deficits, because the licensees themselves pay for those things.

[2:25:18 PM](#)

CHAIR PASKVAN asked if the fee that is being assessed isn't high enough, would that indirectly affect being able to hire enough people to do the work.

MS. DAVIDSON replied that she hadn't looked at staffing enough to make any recommendations about it and maybe the department would want to address it.

[2:25:48 PM](#)

CHAIR PASKVAN found no questions on recommendation 2 on page 8 and went to the last recommendation on page 9 and said the number of vacancies that are identified goes to the core issue of consumer protection and asked if she could add anything.

MS. DAVIDSON replied that it goes back to maintaining good membership on the boards so that work can get done. You don't

want the occupational boards to be so focused on what is good for the occupation. If the state is going to be involved in regulating an occupation, there has to be a good public need for it and that is where the public members, particularly, bring a valuable perspective. So when it's a public member vacancy, not only does everybody else have a bigger work load, but a different point of view is missing from deliberations.

CHAIR PASKVAN asked if she has come across an "unwillingness or uneasiness" with either the public or professional members of a board about sitting on it because of APOC reporting requirements.

MS. DAVIDSON answered that the members of the board that she talks to are already appointed and they would already be over that hurdle. But that might come up from people who decided not to apply to serve on a board. That might be a good question for the Governor's Office in terms of what sort of barriers they are having in getting board members.

CHAIR PASKVAN asked if she has come across instances where there just wasn't an applicant for a board position or where a qualified applicant was just not being appointed.

MS. DAVIDSON replied that the audit just looked at how many vacancies there were.

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SENATOR MEYER remarked that one member resigned because of a direct financial interest in the health care industry. How big of an issue is that? He said you would want people who have knowledge of the pharmaceutical industry on the board. He then asked how they determine whether or not a conflict of interest is too great; is it a subjective call?

MS. DAVIDSON answered that the generic law for public members is that they can't have a financial interest in that occupation. However, this board in particular has a requirement in statute that the public member cannot have direct financial interest in the health care industry.

SENATOR MEYER asked how direct financial interest is defined. Is owning stock in a hospital a health care interest?

MS. DAVIDSON answered that she didn't know the specific details on this one. However, what happened to this public member is he passed through when he was appointed, but then he changed jobs

once he was a board member and that created a conflict with the statute. She explained that during the audit they ask public members to certify that they meet the requirements and this member was unwilling to do that.

[2:31:45 PM](#)

JENNIFER STRICKLER, Operations Manager, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), said they would probably hear recommendation 2 repeated for every sunset audit report. She said unfortunately the division went through a couple of "rough years" with an administrative officer who was not "very accounting savvy" and he didn't educate himself. Since he moved on, someone with an accounting background was hired. Mistakes were corrected to such a degree that some of the boards are now pleased with the budget reports they are getting.

MS. STRICKLER explained that the Board of Pharmacy, for example, gets direct support from the licensing unit, but an administrative unit handles all of the budgetary and accounting information. The enforcement unit does enforcement. The problems they ran into were in the administrative unit in the Professional Licensing area. She recalled that Ms. Davidson mentioned the entry level licensing examiners are range 13 and while they had tried to get them reclassified higher, they hadn't been successful. That is not where the issues lie, however; she said it was with the group that provides the licensing statistics to the administrative group. The problem came with the former administrative officer she had just mentioned who didn't educate himself about their accounting system. For several years, although the writing on the wall, this person was her peer and he was allowed to stay. She said it is a shame that this problem had to get such a level before he moved on. The report said that "known procedures were in place" and they were, but they had been "thrown out" by this individual, which made the problem worse. She has taken great strides to recreate the procedures and to correct a lot of the mistakes.

CHAIR PASKVAN asked if some of the high turnover was a product of the unqualified and untrained person.

MS. STRICKLER answered yes; she said there was great turnover in the administrative and licensing staff; but turnover in the licensing areas of all of the programs is because of the pay level of that job class.

CHAIR PASKVAN asked if the fees being charged the professionals are sufficient for members of the board to operate in a responsible manner.

MS. STRICKLER answered yes; in fact, the fees will be lowered by \$100 across all categories that pay more than \$200.

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CHAIR PASKVAN asked how the fee can be lowered and services can still be adequately provided - focusing on the consumer protection aspect.

MS. STRICKLER replied that because of posting errors in the cost accounting system (direct and indirect costs of expenditures) caused by the former employee she went back and compared that to what is in the state's accounting system. She found a big disparity; so everything was corrected and now matches the state accounting system to date. Fortunately, this board had accumulated a surplus which allows the fee to be lowered now.

CHAIR PASKVAN found no questions regarding recommendation 2.

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SENATOR THOMAS asked if this area is in good shape now.

MS. STRICKLER replied "yes."

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CHAIR PASKVAN went to the issue of policy makers receiving misleading information and he wanted to know if he was asking the right question.

MS. STRICKLER responded that any information he sees from the boards to date will be accurate. The possible misleading information would be incorrect licensing statistics - not from the licensing staff that had accurate information - but from the financial person it was submitted to in the division that prepares the annual reports.

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CHAIR PASKVAN found no further questions on SB 247 and concluded public testimony for the day. So SB 247 was held for further work.

SB 248-EXTEND BD OF MARITAL & FAMILY THERAPY

[2:41:44 PM](#)

CHAIR PASKVAN announced SB 248 to be up for consideration.

[2:41:49 PM](#)

TIM BENINTENDI, staff to Senator Olson, sponsor of SB 248, said the extension of the Board of Marriage and Family Therapy shows June 30, 2015 in the bill, but the recommendation was for 2014. He ordered up copies of the bill before doing the homework and when he read the audit he found the recommendation was for 2014. The sponsor supports the audit and has asked them to amend SB 248 to reflect its recommendation.

He said the board is composed of three therapists and two public members; the cost of a license is currently at \$775 and in FY09 had 84 licensees. According to the audit that figure may be declining. Also according to the audit, the board's deficit has gone down fairly dramatically from \$75,400 in FY05 to \$29,200 in FY09. The deficit has existed for over 10 years.

MR. BENINTENDI said the board needs to make regulatory changes, however preparations and processing for such are charged to it and members want to eliminate its deficit before they move to make significant regulatory changes. He said the legislative audit recognizes this and further observed that the board support from the department could be more substantial and that the governor could be making appointments in a more timely fashion.

CHAIR PASKVAN asked about the APOC issue if there is a concern that either the applicant pool is extremely small or that the appointments haven't been completed from the available applicants.

MR. BENINTENDI answered that he didn't have any thoughts beyond what has been stated in the audit. Frankly, he said, department personnel may have more current figures, but a decline in numbers seems to have been the trend for the last several years, and it is a small pool of people from which to draw fees.

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CHAIR PASKVAN remarked that he has a draft committee substitute (CS) that reflects the recommended-2014 sunset date that would be brought up in the next meeting.

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PAT DAVIDSON, Division of Legislative Audit, Alaska State Legislature, said the audit recommended extending the Board of Marital and Family Therapy to June 30, 2014. She explained that

a four-year extension is half of what is allowed by statute, and the reason for the four-year recommendation is because she found the board is holding off on regulation projects because of the estimated associated costs along with the fact that the board is currently trying to work off its deficit.

She said that a main advantage to having professional boards is they keep regulations up to date instead of the legislature or an administrative body having to do it. However, if the board is holding off on doing the regulatory changes that are necessary to keep that professional occupation to its professional standards, it isn't really aren't serving its licensing purpose. This is why the audit recommended a limited extension. They also found the same administrative difficulties with the board - lack of timely appointments by the governor for new board members.

CHAIR PASKVAN said page 7, findings and recommendations, references that chairs of both the boards objected to her recommendation of combining them into one single board. What was the basis for the objection?

[2:48:06 PM](#)

MS. DAVIDSON replied that the last time mental health professionals were looked at - the Boards of Social Workers, Marital and Family Therapists, Professional Counselors, Psychologists, Psychological Associates, and one other group - they were all up for sunset in the same year (by design). One of the things she looked at is if they should be combined and her recommendation is that they could be combined. But when it comes down to it, the boards are financially self supporting and so is each occupation. So there was no overriding budgetary need for the combination; and probably the best way to create failure is to try to "stick people together who do not want to be there." Her office thought a combined board would be larger than any one of the individual boards, but in total would be a little bit smaller. Again, they had a real concern that if the boards didn't want to join or there was more than an initial reluctance to it, they would end up with a couple of very dysfunctional boards. About four or five years ago the legislature decided to individually license the boards.

MS. DAVIDSON said the Board of Marital and Family Therapists thought combining would be okay, but it was in financial difficulty and continuing to be challenged; and it has pretty high fees. The only other board that has a small group with high fees is the Board of Direct Entry Midwives. Their group is relatively small; the fees go up and down and they never hear

complaints from the practitioners about getting rid of their board.

CHAIR PASKVAN asked if given the objection to joining together, would it be appropriate to do a two-year sunset to see how successful their financial efforts are. Or are they forever separated and not going to try to achieve those efficiencies?

MS. DAVIDSON said the legislature could designate whatever extension it would like. Since the statute requires each occupation to be self sufficient, combining the boards would make any economies of financial scale. Choosing to make a two-year extension to drive the point home is up to the legislature.

CHAIR PASKVAN found no further questions on recommendation 1 and went on to recommendation 2, the issue of unqualified staff and lack of documented procedures.

SENATOR THOMAS interrupted to say he had trouble understanding how delaying regulations has an impact on revenue.

MS. DAVIDSON answered that regulation projects involve the Department of Law (DOL) and it bills the board for its services. If they start to incur legal and regulation specialist costs, then the costs would go up and then the fees have to go up. This board is already seeing a decline in the number of people who are seeking licensure. She reminded them that this is one of the boards that has a title restriction. You cannot call yourself a licensed marital and family therapist unless you are licensed by the state, but it doesn't really prohibit one from offering those services in a different name. So, while practitioners find value in licensing, by being able to bill insurance companies for instance, it's a title restriction, not a practice restriction. If the fees get to be too much to bear, people could decide to just not be licensed.

[2:55:01 PM](#)

CHAIR PASKVAN asked if the state has a minimum qualification standard for someone calling himself a counselor or a therapist.

MS. DAVIDSON replied yes; there are Boards of Professional Counselors, Social Work Examiners, and Psychologist and Psychological Associates. Each of those boards are going to have educational requirements associated with them - possibly a certain level of experience requirements and clinical or non clinical settings to meet licensure.

CHAIR PASKVAN asked if that included the Board of Marital and Family Therapy.

MS. DAVIDSON replied "yes."

[2:56:18 PM](#)

CHAIR PASKVAN went on to recommendation 2 on the unqualified staff and lack of documented procedures.

MS. DAVIDSON said those are the same issues as with the previous bill.

CHAIR PASKVAN went to recommendation 3.

MS. DAVIDSON said that is the same as the previous bill.

CHAIR PASKVAN found no further questions on any of the recommendations.

[2:57:00 PM](#)

JENNIFER STRICKLER, Operations Manager, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), reported that the Board of Marital and Family Therapy is about \$2000 shy of making up its deficit. The division's fee analysis is based on a two-year period and as with the other board, they had gone back and corrected its figures.

CHAIR PASKVAN asked her "gut feeling" about combining this board with other boards once their monetary deficiency is brought up to date.

MS. STRICKLER answered that her gut feeling is that the potential would be there if they were all operating in the positive, but she didn't necessarily see any huge benefits. For example, the Board of Architects, Engineers, Surveyors, and Landscape Architects has 11 or 12 members. Central licensing has a law that says for whatever reason, they all pay the same amount of fees. The same thing could happen here, but if the Board of Marital and Family Therapy currently has 84 licensees and if they are added to a larger group, like the Board of Psychologists and Psychological Associates, even if they all pay the same fees, a majority of the revenue would be coming from the psychology area. The boards might not consider that "equal."

[2:59:56 PM](#)

PATRICIA WHITE, Chair, Board of Marriage and Family Therapists, introduced herself.

CHAIR PASKVAN asked her thoughts regarding the audit's findings and recommendations and sunset extension.

MS. WHITE said she wrote a letter in response to the audit and it said that the responsibility spread over three sections was fair and not just all the board's fault. The deficit has been a problem, but it happened earlier on in the board's creation around 1992. The board has made changes in the way investigations are carried out before passing them on to the DOL, which eliminates the problem that happened many years ago. The investigation centered on actions on the part of a licensed marriage and family therapist who is no longer in the profession. It was a good thing, but procedures have been changes so that these kinds of costs won't happen to the board again.

MS. WHITE stated that the audit said their main function is protecting the public interest and that their inability to look at changing regulations was challenging in that light. While that is true in theory, after the audit came out the board decided to review all of its minutes to see if it should have gone ahead with regulations but were thwarted because of associated costs. She didn't think they would find that any public interest had been challenged, but they were going to make sure.

[3:03:18 PM](#)

CHAIR PASKVAN asked if she found the APOC reporting requirements of board members was unduly limiting the field of potential applicants.

MS. WHITE answered that she didn't realize there was an APOC reporting requirement.

CHAIR PASKVAN asked if anyone else wanted to comment on the APOC issue. Finding no further questions, he said SB 248 would be held for further work.

SB 117-PRICE OF CIGARETTES

[3:06:01 PM](#)

CHAIR PASKVAN announced SB 117 to be up for consideration.

ESTHER CHA, aide to Senator McGuire, sponsor of SB 117, said the intent of SB 117 is to close a loophole in law, which allows large high-volume cigarette sellers to price their cigarettes at less than the minimum price set by law if it can be proved that their cost of doing business is lower than the mandated minimum price.

She explained that the original purpose of Article 7 in Title 43 was to prevent wholesalers and retailers from using predatory pricing practices to promote the sale of cheap cigarettes and use them as a loss leader. However, AS 43.50.800(c) specifically states that a wholesaler or retailer that wishes to advertise, offer to sell, or sells cigarettes at less than the presumptive actual cost to the wholesaler or retailer must first obtain approval from the Department of Revenue (DOR). The department may grant approval only if the wholesaler or retailer provides proof satisfactory to the department that the wholesaler's or retailer's actual cost is lower than presumed. Because of this one clause, the statute didn't work the way it was supposed to.

For example, she said if the department determines that a pack of cigarettes' minimum cost is \$7 and someone comes in and says they can show their cost of doing business allows them to price cigarettes at \$6.50; so they apply to the DOR that determines whether that is true and allows them to sell cigarettes at that price.

She said that SB 117 would repeal AS 43.50.800 and replace it with section 6 in the bill which establishes AS 43.50.810. A committee substitute (CS), version E, changes the multipliers. In SB 117 (a) the current percentages are as described in AS 43.50.800(a)(b), but the change in percentage points reflects the compromise among some of the smaller retailers as well as the larger wholesalers. They have discussed this with the DOR and found that the difference is the multipliers.

MS. CHA said that supporting documents indicate how increased prices work to help deter people from smoking, especially youth. The studies are accurate, she said, however the price changes that may be in effect with this bill may not be as exaggerated as needed to prevent a very large decrease in consumption. By getting rid of the wholesaler's or retailer's ability to apply for an exemption, SB 117 would also bring parity and balance to competition. It would level the playing field by insuring that all vendors regardless of size and volume or accounting practices will have to price at or above the minimum price set by law.

[3:10:08 PM](#)

SENATOR MEYER asked how much the price would go up per pack and if it was set per pack or per carton. He also wanted to know how they came up with the multiplier.

MS. CHA deferred those answers to Johanna Bales with the department.

SENATOR MEYER assumed this applied to just cigarettes and not small cigars. Ms. Cha indicated that was correct.

[3:11:25 PM](#)

CLIFF CRAEMER, Vice President, Sales and Marketing, Northern Sales Company, said they are a diverse, full-service distributor that does commodities like bread, candy, snacks, beverages and tobacco. He strongly supported the CS for SB 117. He believed that the proposed changes will simplify current law, reduce administrative burden for both the state and licensee, and allow a level playing field for both the wholesalers and the retailers. They support the recommendation of removing the exemption and the proposed changes in the multiplier. This is a compromise between all the parties involved.

[3:13:42 PM](#)

JOHN MAKAY, Sr. Vice President, Northwest Region, Costco Wholesale Corporation, said Costco doesn't view the existing law as having a loophole. They always sell products above cost. He explained that the provision was inserted in the past to allow Costco to not have to artificially overcharge due to "essentially a price fixing mechanism." It turned out, however, that that provision was very burdensome for both Costco and the DOR. He supported this change, but said it would increase the price slightly.

[3:15:41 PM](#)

CHAIR PASKVAN asked if Costco factors labor into their cost.

MR. MAKAY answered yes; they factor in every cost. Costco and the DOR spent a lot of time figuring out how to determine cost - for example, how much of his salary or their overhead should get applied to one little department in two buildings in a company that has 550 locations. He said it is very subjective and he appreciated the department working with them trying to determine that, but it was an unwieldy process. Tobacco suppliers did not allow deductions that Costco sometimes gets for its other products; so the profit they made on tobacco, even with the

existing assumptions, was higher in Alaska than probably anywhere in the country.

SENATOR MEYER asked if all the states he covers have minimum pricing for cigarettes.

MR. MAKAY answered that none of them do; Alaska is the only one.

[3:18:33 PM](#)

SENATOR MEYER said he read that 23 other states do have this, so it's not uncommon. Alaska is just the only one in his district.

MR. MAKAY said when this was instituted a number of years ago, a fair amount of analysis was done on the states.

SENATOR MEYER asked if tobacco can be used as a loss leader in states that don't have minimum pricing.

MR. MAKAY replied that he thought so, but Costco has an internal policy of not selling things below cost. He said he wasn't an expert in that area.

[3:19:21 PM](#)

SENATOR MEYER said he noticed the formula had a trade discount, and asked what that is.

MR. MAKAY replied that a lot of discounts have been eliminated by the tobacco companies, except for volume discounts and maybe payment terms.

[3:20:16 PM](#)

ROGER HAMES, President, Hames Corporation, Sitka, Alaska, supported SB 117 and the CS for all the reasons already stated. He added that he understands that prices would go up fractionally at the most.

[3:21:48 PM](#)

CHAIR PASKVAN held SB 117 for further work and adjourned the meeting at 3:22 p.m.