

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

February 24, 2009

9:03 a.m.

MEMBERS PRESENT

Senator Linda Menard, Chair
Senator Kevin Meyer, Vice Chair
Senator Hollis French
Senator Albert Kookesh
Senator Joe Paskvan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE JOINT RESOLUTION NO. 6

Urging the United States Congress to reject H.R. 45, the Blair Holt's Firearm Licensing and Record of Sale Act of 2009.

MOVED CSSJR 6(STA) OUT OF COMMITTEE

SENATE BILL NO. 50

"An Act relating to Iditarod finisher special request license plates."

MOVED SB 50 OUT OF COMMITTEE

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."

MOVED CSSB 19(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SJR 6

SHORT TITLE: OPPOSE H.R. 45 IN CONGRESS

SPONSOR(S): SENATOR(S) THERRIAULT

02/09/09	(S)	READ THE FIRST TIME - REFERRALS
02/09/09	(S)	STA, JUD
02/24/09	(S)	STA AT 9:00 AM BELTZ 211

BILL: SB 50

SHORT TITLE: IDITAROD REGISTRATION PLATES
SPONSOR(S): SENATOR(S) HUGGINS

01/21/09 (S) PREFILE RELEASED 1/9/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) STA, FIN
02/24/09 (S) STA AT 9:00 AM 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

WITNESS REGISTER

DAVE STANCLIFF, Staff
to Senator Gene Therriault
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Presented SJR 6.

SHARON LONG, Staff
to Senator Charlie Huggins
Alaska State Legislature
Juneau, AK
POSITION STATEMENT: Presented SB 50.

WHITNEY BREWSTER, Director
Division of Motor Vehicles
Anchorage, AK
POSITION STATEMENT: Answered questions regarding SB 50.

ANDY MODEROW, Staff
to Senator Hollis French

Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Spoke in favor of SB 50.

STAN HOOLEY, Executive Director
Iditarod Trail Committee
Anchorage, AK

POSITION STATEMENT: Spoke in favor of SB 50.

TERRENCE SHANIGAN, Alaska State Trooper
Member of Public Safety Employees Association (PSEA)
Talkeetna, AK

POSITION STATEMENT: Spoke in opposition to SB 19.

SUE STANCLIFF, Special Assistant
to the Commissioner
Department of Public Safety
Anchorage, AK

POSITION STATEMENT: Expressed a neutral position on SB 19.

VERNON MARSHALL, Lobbyist
Public Safety Employees Association (PSEA)
Anchorage, AK

POSITION STATEMENT: Spoke in opposition to SB 19.

ACTION NARRATIVE

[9:03:01 AM](#)

CHAIR LINDA MENARD called the Senate State Affairs Standing Committee meeting to order at 9:03 a.m. Senators French, Paskvan, Meyer, and Menard were present at the call to order. Senator Kookesh joined the meeting shortly thereafter.

SJR 6-OPPOSE H.R. 45 IN CONGRESS

[9:04:50 AM](#)

CHAIR MENARD announced the consideration of SJR 6.

DAVE STANCLIFF, Staff to Senator Gene Therriault, Alaska State Legislature, said SJR6 deals with gun control. The topic is a result of the ever-growing level of violence in our nation. Proponents believe that changing laws will change people's behavior with regard to gun violence. They believe that it will change bad people. "The actual result, of course, is law-abiding people obey laws, and law-breakers do not." Gun control removes the ability "to protect oneself from law-abiding citizens while

those who threaten those citizen have less and less fear of retaliation when they use their guns to assault their victims."

[9:06:25 AM](#)

MR. STANCLIFF said HR 45 [Congressional legislation referred to as Blair Holt's Firearm Licensing and Record of Sale Act of 2009] is not a benign threat to those who support the second amendment. "At the very least, it is a potent message to Americans that the desire to control guns is ... alive and well." It is a rallying point for those who believe in gun control. It is not something that should be ignored, "as such ignorance sends a signal to those who support such ideas." SJR 6 counters that signal. It will clearly indicate that Alaskans, by and large, do not support gun control nor do they appreciate methods to do so. "What we tolerate we encourage." SJR 6 may not have an overwhelming affect, but it states how little tolerance that Alaskans have for such measures. Senator Therriault acknowledges that HR 45 doesn't have a cosponsor, and it has been introduced before and "has gone nowhere." "From the reaction that it has gotten from his district, and if you read the papers, the things that are going on in Fairbanks and various places in the state, the more quickly ... the legislature sends a message on behalf of the people, the more appreciated it will be."

[9:08:44 AM](#)

SENATOR MEYER asked if a copy should go to the president, "not that he cares what we think up here."

MR. STANCLIFF said the drafters determine that. If it is not violating some unspoken principle, it would be wise.

SENATOR MEYER said there was a resolution yesterday that included the president.

[9:09:54 AM](#)

SENATOR PASKVAN said he believes it is sent to the vice president because he votes in the event of a tie.

SENATOR FRENCH said if HR 45 passed, President Obama could veto it, so "you might want to make him aware of it."

[9:10:47 AM](#)

SENATOR MEYER moved to adopt Amendment 1, to include President Barack Obama in line 23. There being no objection, the motion carried.

SENATOR MEYER moved to report SJR 6 [as amended] from committee with individual recommendations and accompanying fiscal notes. Hearing no objection, CSSJR 6(STA) passed out of committee.

SB 50-IDITAROD REGISTRATION PLATES

[9:12:07 AM](#)

CHAIR MENARD announced the consideration of SB 50.

[9:12:30 AM](#)

SHARON LONG, staff to Senator Charlie Huggins, Alaska State Legislature, said SB 50 -- Iditarod finisher license plates -- honors those who have shown the dedication, perseverance, and exemplary athletic ability to finish the Iditarod sled dog race. The Department of Administration will approve the new plate design. The finishers will be able to purchase these exclusive plates by providing proof of completing the race. The finisher must have a vehicle registered in Alaska that will display the plate. There is a zero fiscal note. "Senator Huggins requests your support for this new category of specialty license plates honoring the mushers who have endured the challenges and shown the courage and ability to complete what's affectionately known as the last great race on earth."

[9:14:55 AM](#)

SENATOR PASKVAN asked about "\$50 for some people ... and \$30 for other categories. What are we trying to create?"

MS. LONG said, "It seemed to fall more in the category of the custom collector plates."

SENATOR PASKVAN asked if \$50 is an additional registration fee.

MS. LONG said it is the charge for the plate, and she thinks that is separate from the registration fees.

WHITNEY BREWSTER, Director, Division of Motor Vehicles, Anchorage, said the cost of the plate would be in addition to the regular registration fee.

[9:16:16 AM](#)

MS. BREWSTER said this is not like a previous bill where a special fund is created for fundraising purposes. This will simply create a new plate that the DMV will make available to Iditarod finishers. The funds collected above and beyond the cost of producing the plates will go to the general fund.

ANDY MODEROW, staff to Senator Hollis French, Alaska State Legislature, said he did the Iditarod in 2001 and had a blast. As a musher he can say that many people who have done the race will use the plates. It will advertise the race to people visiting from out of state. His most vivid memory of license plates was during a visit to Connecticut where he saw different states represented. This bill will establish something that will represent Alaska very well and bring up images of adventure and wilderness. It will be fun for visitors to see the plates.

[9:18:56 AM](#)

SENATOR FRENCH asked how long it took him to finish the race and what place he took.

MR. MODEROW said it took him 12 days and 44 minutes. He took 17th place out of about 80 entrants.

SENATOR FRENCH asked how cold it got and the farthest distance he traveled in 24 hours.

MR. MODEROW said it never got much lower than negative 10 or 20. He ran 16 to 17 hours during one 24-hour period. He said both his mom and dad have finished the race as well, and they would be excited about this license plate.

[9:20:29 AM](#)

SENATOR FRENCH asked if more people have summited Mt. Everest than have finished the Iditarod.

MR. MODEROW said he has heard that.

[9:21:10 AM](#)

STAN HOOLEY, Executive Director, Iditarod Trail Committee, Anchorage, said his organization supports SB 50. "We think it's a great thing to recognize this relatively small yet elite group of adventurers." He said Mr. Moderow was the youngest person at the time to complete the Iditarod. In the 36 years of this race, only 663 people have laid claim to the most expensive and coveted belt buckle on the planet.

CHAIR MENARD said if the canines are included it would be a large group, and they will be honored to be on the plates.

MR. HOOLEY said they will be part of the design. The two-legged athletes work as a team with the four-legged athletes.

[9:23:28 AM](#)

SENATOR FRENCH moved to report SB 50 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 50 moved out of committee.

SENATOR KOOKESH suggested differentiating between a person and a dog in the bill. An owner of a dog that finished the race may want to buy the license plate.

SENATOR FRENCH noted that the bill specifies a "person".

SB 19-COMPLAINTS AGAINST PEACE OFFICERS/VPSOS

9:25:05 AM

CHAIR MENARD announced the consideration of SB 19.

SENATOR MEYER noted that the committee was working on Version E, which is CSSB 19 (CRA).

9:25:52 AM

SENATOR FRENCH said this bill is based on a recommendation of the Branchflower Report. It balances the need to keep personnel investigations confidential to preserve the reputations and privacy of troopers with the need to provide some feedback about complaints of a trooper. The bill now strictly pertains to peace officers. The committee earlier eliminated village public safety officers from it. The bill sets up a process for a citizen who has a complaint and is willing to sign a written document regarding it. The department will provide updates on the progress of the investigation and the outcome of it. It is a small step. There will be no website or public hearings; it just establishes a small safety valve that lets the public know that a complaint was dealt with and what the outcome was.

9:27:57 AM

CHAIR MENARD asked if Mr. Branchflower has seen the CS.

SENATOR FRENCH said he will send him the current language.

SENATOR KOOKESH asked if the definition of peace officer satisfies the committee.

SENATOR FRENCH noted a letter of support from the Alaska Peace Officers Association. The definition of peace officers, in general, means troopers, municipal police, VPSOs and U.S. marshals, but the bill narrows the definition to those who are employed by the department. That restricts it to state troopers.

9:30:20 AM

SENATOR KOOKESH asked if there is any opposition.

SENATOR FRENCH said he has been working with the Public Safety Employees Association (PSEA) and APD, and there are some concerns. He shares some of the concerns. "You could conceivably wind up having revealed to a citizen what the outcome of a complaint is; you could wind up with, sort of, a public record ... of discipline," which could be used against that officer in court or with public opinion. He is working with APD, PSEA, and the department [of public safety (DPS)]. The commissioner of DPS is establishing a new Office of Internal Affairs that will largely replicate SB 19. Some troopers are a little concerned.

SENATOR PASKVAN asked if the intent is to give a response to a written complaint, but not an oral complaint.

9:32:16 AM

SENATOR FRENCH said the basic intent is to just provide some feedback to citizens. The reason he requires the complaint to be written is to keep track of it and to expect a "seriousness of purpose."

SENATOR PASKVAN said there have been investigations that were serious and were never formalized; it was just done internally. He wants to make sure the bill is not foreclosing the oral notification, and that the internal process can continue - "that we're not limiting it to just written notification back to a complainant."

9:33:15 AM

SENATOR FRENCH said that is a great point, and it is not his intention to shut that down. He doesn't believe that the department intends to make all complaints be in writing. His discussions with the commissioner and the union have taught him that they take complaints seriously. A phone call alerting the department to an officer who is driving poorly, for example, is looked into. It is not his intention to make all complaints in written format.

9:34:10 AM

TERRENCE SHANIGAN, Alaska State Trooper, Member of PSEA, Talkeetna, said every Alaska resident has the right to complain about anyone in any job. The original definition on line 5 identified state peace officers, "and immediately to me it singled out state troopers." The language looked like it focused on troopers. That was also the reaction of some of his

colleagues. He asked if a complaint means being rude or unprofessional, or if it means using pepper spray to deal with an unruly six-year-old. One of those is a personnel issue that would be handled confidentially. The other is excessive use of force, which might be criminal. There are processes in place for people who complain. Sometimes those complaints point to criminal acts, and others are handled like any personnel matter. If someone working at a store is rude to a customer, the manager may handle that rudeness later. Some of the intent in the bill is notifying the complainant. "We do that already in many cases." Informal complaints may not get a follow-up unless it has been asked for. Since there are already procedures for handling complaints made against state troopers, the bill looks like it singles out state troopers specifically. The DPS is already working to come up with that process through the commissioner, who would have an "independent source investigate complaints and those kinds of things." Having this in statute is redundant and complicates the situation. It should be a standard process statewide for all law enforcement officers. Forcing personnel matters to be made public by statute could undermine good troopers and the trust in them - "and also trust by troopers that those that are doing the investigating of the complaints are actually taking a neutral position." It could serve to cast a shadow of doubt over troopers or law enforcement officers in the public's eye. It creates a slippery slope by giving some of the information back, and it would ruin the credibility of those sworn to protect Alaskans.

[9:38:00 AM](#)

MR. SHANIGAN said, "By publicizing accusations made against somebody for the sake of somebody's curiosity ... I don't see this just stopping at giving feedback to somebody. I think this opens the door for somebody then to say, well we want to know more." He said there is a desire to know and a need to know. His profession spends a lot of time dealing with people who cause problems and who are in legal trouble. There is a higher rate of people who want to complain. A handful of people may make numerous complaints against every single trooper. If some of that is made public without knowing how often such people are complaining, what their histories are, or if the complaints are valid it could give troopers black eyes. The bill speaks to written statements being unsworn falsification. "It should be unsworn falsification even if it is verbal." He doesn't see the district attorney's office starting to take on these false complaints when there are more serious crimes to deal with.

CHAIR MENARD surmised that he is not in favor of SB 19.

MR. SHANIGAN said he is not, mostly because there are things that single out state troopers.

9:40:49 AM

SENATOR FRENCH thanked the trooper. He said he has had several thoughtful conversations with line officers and the troopers union, and he is listening on how to balance the interests of troopers so they are not harassed by false complaints, with the public's legitimate right to have some feedback on issues with the individuals who are empowered to carry guns and enforce the law. He will make sure the bill doesn't get blown wide open.

SUE STANCLIFF, Special Assistant to the Commissioner, Department of Public Safety, Anchorage, said Trooper Shanigan was speaking on his own behalf. The DPS has worked closely with Senator French and appreciates his efforts, but it has not yet taken an official position on the bill. She said there has been a problem with reporting back to people, and the public trust has been diminished. DPS wants to fix it. The commissioner has done a tremendous amount of work in the Office of Professional Standards that he has created to protect the integrity of the department and insure the public trust. It is a new internal affairs unit and is a proactive approach. The Office of Professional Standards was created in response to the need for centralized oversight, management, and analysis of departmental investigations. Investigating employee misconduct will ensure that complaints are dealt with in a thorough, objective, timely, and consistent manner. The office will work for the commissioner and will be staffed with two highly-trained investigators. In the past, serious complaints were reviewed at the division level by a trained supervisor who would follow the manual to guide him or her through the often complex steps of notification and investigation required by union contracts.

9:44:33 AM

MS. STANCLIFF said between union contracts and department policies, it can be a difficult maze. It is generally effective, but there have been problems with the approach. Current statute concerning confidentiality restricts information that can be released to a complainant. It has been very difficult to provide a final outcome to a complainant. The Office of Professional Standards will send a letter to every complainant advising them of the investigation and appropriate action. It does not change how complaints are handled at the field level. The commanding officer has a database that complaints are entered into. It is a tracking system and early warning device. The system is being

put into place by the commissioner and he believes it will be very effective.

[9:46:56 AM](#)

VERNON MARSHALL, Lobbyist, Public Safety Employees Association (PSEA), Anchorage, said PSEA has a prepared statement of concerns with SB 19. He is working with the sponsor. He has the article from the collective bargaining agreement that outlines the specific procedures for criminal and administrative investigations and inquiries. He said PSEA has met with everyone on the committee. He expressed a concern of confidentiality. The collective bargaining agreement stipulates that material that relates to an investigation is confidential. That is good public policy. He is not worried that the state will create a website with that information, but others may want to post the complaints. That is not a good way to deal with the issues of an agency as important as the Alaska troopers. Also, the threshold of signing a complaint is relatively low. The statements are punishable as unsworn falsification, but there is a greater penalty for falsely signing a boat registration. Whether it is valid or not, a complaint should be brought forth in the spirit of trying to get the issue presented to the department and dealt with. Some frivolous complaints will be eliminated if the level of signing is raised to a point of oath. PSEA supports Commissioner Masters' Office of Professional Standards, and it is working with the department. It is a good way to resolve some of the problems that people have.

[9:51:29 AM](#)

SENATOR MEYER asked how the bill can be improved.

MR. MARSHALL suggested removing the section on confidentiality. There would still be language that would be consistent with the collective bargaining agreement. Removing it doesn't diminish the investigation. Investigations do take place with higher command staff. "The issue of confidentiality avoids the possible politicizing of complaints that might come up from time to time."

[9:53:14 AM](#)

SENATOR FRENCH asked about the effect of removing Section 2.

MR. MARSHALL said the intent is to provide feedback to citizens. The agreement and the statute would provide the means by which the DPS could say the complaint was received and what happened after the investigation.

SENATOR FRENCH asked if Mr. Marshal wants that disclosure and communication confidential.

MR. MARSHALL said, "No ... if you take out Section 2, I think that disclosure can be made as its being made now under the current procedure." There has been testimony that complaints are being filed now. There is a "report back" on the part of captains and higher to those filing the complaint. "They've been heard; they've been checked in to, and the ... complainant can be assured that something was done."

[9:55:23 AM](#)

SENATOR FRENCH said it is not clear at all that that is happening. The committee has not heard that. We need to get the commissioner here to say that those citizens are called at the end. "I don't think that is the record."

MR. MARSHALL said officers tell him that the feedback process is in place. It is not the procedures that fail many times, it could be the people that fail. "But I believe they do that."

SENATOR FRENCH said then this bill is redundant - there is no reason to oppose the bill because it is already happening.

MR. MARSHALL said that is what he has argued.

SENATOR FRENCH said that is not what Mr. Cox's letter says. He urged him to read the letter.

[9:56:43 AM](#)

SENATOR PASKVAN asked if Mr. Marshall has trouble with disclosing the report to the public. Instead, the complainant is told that the complaint justified the investigation, but he or she is not told - because of confidentiality issues - what actual result occurred. Is that what you are saying?

MR. MARSHALL said that is much better. The issue is what "valid" means. Are all complaints valid, or will there be a higher threshold? The meaning of valid is very broad, and it should be narrowed it to a point that is better understood by all parties.

[9:58:54 AM](#)

SENATOR PASKVAN asked about oversight outside of the department.

MR. MARSHALL said he is not aware of any investigative effort outside of the department. Commissioner Masters is putting the Office of Professional Standards in place with two staff for

dealing with internal issues. They will be responsible for dealing with complaints.

SENATOR KOOKESH asked if Mr. Marshall is saying that he wants disclosures made to a complaint under AS18.65.120 to disappear. So if a complaint is found valid, Mr. Marshall wants disclosures made under this section to be confidential. "You don't want anybody to know about it."

MR. MARSHALL said he wants the complainant to get the information that is listed in Section 1.

[10:01:00 AM](#)

SENATOR KOOKESH said that is where the public has the right to know. That overrides confidentiality rights. If a peace officer is doing something wrong and it is kept confidential, then we have a problem. Getting rid of the confidential section in the bill won't solve the problem. Peace officers are subject to a certain standard, like everyone in this state.

[10:01:44 AM](#)

MR. MARSHALL said the union agrees that officers should be punished for violating any kind of legal or moral standard. He would like to work with the committee. With a clearer definition like Senator Paskvan offered, we can deal with the release of that information.

SENATOR FRENCH said he appreciates the remarks, and he doesn't feel like this bill is on a fast track. He will continue to work with the commissioner. It is a touchy subject, and he will try to get to something that works.

CHAIR MENARD said the new professional standards office has a lot of validity. In the meantime, the state needs to deal with something that has happened in the past.

[10:03:38 AM](#)

MR. MARSHALL said the union wants to work on this. It is not adversarial.

SENATOR MEYER asked if Senator Paskvan had an amendment.

SENATOR PASKVAN said he is struggling with the definition of valid. So the question is if the response doesn't have to use the term "valid," but that the investigation was warranted.

[10:05:28 AM](#)

SENATOR FRENCH said he has struggled with that word as well. The bill goes to judiciary next, and it will likely stay there for awhile. It can be worked on.

SENATOR MEYER said he is not comfortable that the bill balances the rights of the troopers and the public. He is willing to help improve it.

SENATOR KOOKESH said he is satisfied with the bill, but he can work with the members. Not everyone can be satisfied.

10:07:05 AM

CHAIR MENARD asked for a motion.

SENATOR MEYER said he is not excited about it, but he moved to report CS for SB 19 from committee with individual recommendations and attached fiscal note(s). There being no objection, CSSB 19(CRA) moved out of committee.

10:08:15 AM

There being no further business, Chair Menard adjourned the meeting of the Senate State Affairs Committee at 10:08 a.m.