

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 12, 2012

3:28 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Craig Johnson, Vice Chair
Representative Dan Saddler
Representative Steve Thompson
Representative Lindsey Holmes

MEMBERS ABSENT

Representative Mike Chenault
Representative Bob Miller

COMMITTEE CALENDAR

HOUSE BILL NO. 266

"An Act relating to the practice of naturopathy; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 27(HSS)

"An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to a multistate chemicals clearinghouse; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 119(L&C)

"An Act relating to athletic trainers."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 266

SHORT TITLE: PRACTICE OF NATUROPATHY

SPONSOR(S): REPRESENTATIVE(S) MUNOZ, TUCK, THOMPSON

01/17/12 (H) PREFILE RELEASED 1/13/12
01/17/12 (H) READ THE FIRST TIME - REFERRALS

01/17/12	(H)	L&C
02/08/12	(H)	L&C AT 3:15 PM BARNES 124
02/08/12	(H)	Heard & Held
02/08/12	(H)	MINUTE(L&C)
02/17/12	(H)	L&C AT 3:15 PM BARNES 124
02/17/12	(H)	Heard & Held
02/17/12	(H)	MINUTE(L&C)
02/29/12	(H)	L&C AT 3:15 PM BARNES 124
02/29/12	(H)	Heard & Held
02/29/12	(H)	MINUTE(L&C)
03/05/12	(H)	L&C AT 3:15 PM BARNES 124
03/05/12	(H)	<Bill Hearing Canceled>
03/30/12	(H)	L&C AT 3:15 PM BARNES 124
03/30/12	(H)	<Bill Hearing Canceled>
04/02/12	(H)	L&C AT 3:15 PM BARNES 124
04/02/12	(H)	Heard & Held
04/02/12	(H)	MINUTE(L&C)
04/06/12	(H)	L&C AT 3:15 PM BARNES 124
04/06/12	(H)	Scheduled But Not Heard
04/09/12	(H)	L&C AT 3:15 PM BARNES 124
04/09/12	(H)	Scheduled But Not Heard
04/11/12	(H)	L&C AT 3:15 PM BARNES 124
04/11/12	(H)	Heard & Held
04/11/12	(H)	MINUTE(L&C)
04/12/12	(H)	L&C AT 3:15 PM BARNES 124

BILL: SB 27

SHORT TITLE: FLAME RETARDANTS /CHEMICALS CLEARINGHOUSE
 SPONSOR(s): SENATOR(s) WIELECHOWSKI

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	HSS, FIN
02/21/11	(S)	HSS AT 1:30 PM BUTROVICH 205
02/21/11	(S)	Heard & Held
02/21/11	(S)	MINUTE(HSS)
02/28/11	(S)	HSS AT 1:30 PM BUTROVICH 205
02/28/11	(S)	Moved CSSB 27(HSS) Out of Committee
02/28/11	(S)	MINUTE(HSS)
03/01/11	(S)	HSS RPT CS 3DP 1NR NEW TITLE
03/01/11	(S)	DP: DAVIS, ELLIS, EGAN
03/01/11	(S)	NR: MEYER
04/08/11	(S)	FIN AT 9:00 AM SENATE FINANCE 532
04/08/11	(S)	Heard & Held
04/08/11	(S)	MINUTE(FIN)
02/24/12	(S)	FIN RPT CS (HSS) 3DP 2NR
02/24/12	(S)	DP: THOMAS, EGAN, ELLIS

02/24/12 (S) NR: STEDMAN, OLSON
02/24/12 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/24/12 (S) Moved CSSB 27(HSS) Out of Committee
02/24/12 (S) MINUTE(FIN)
04/04/12 (S) TRANSMITTED TO (H)
04/04/12 (S) VERSION: CSSB 27(HSS)
04/05/12 (H) READ THE FIRST TIME - REFERRALS
04/05/12 (H) L&C, FIN
04/10/12 (H) L&C AT 4:00 PM BARNES 124
04/10/12 (H) -- MEETING CANCELED --
04/11/12 (H) L&C AT 3:15 PM BARNES 124
04/11/12 (H) Heard & Held
04/11/12 (H) MINUTE(L&C)
04/12/12 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 119

SHORT TITLE: ATHLETIC TRAINERS; INTERSCHOL. ACTIVITIES

SPONSOR(S): SENATOR(S) MEYER

04/01/11 (S) READ THE FIRST TIME - REFERRALS
04/01/11 (S) HSS, L&C
04/11/11 (S) HSS AT 1:30 PM BUTROVICH 205
04/11/11 (S) Moved CSSB 119(HSS) Out of Committee
04/11/11 (S) MINUTE(HSS)
04/12/11 (S) HSS RPT CS 4DP NEW TITLE
04/12/11 (S) DP: DAVIS, MEYER, EGAN, DYSON
04/12/11 (S) FIN REFERRAL ADDED AFTER L&C
04/14/11 (S) L&C AT 2:00 PM BELTZ 105 (TSBldg)
04/14/11 (S) Moved CSSB 119(L&C) Out of Committee
04/14/11 (S) MINUTE(L&C)
04/15/11 (S) L&C RPT CS 4DP 1NR NEW TITLE
04/15/11 (S) DP: EGAN, DAVIS, PASKVAN, MENARD
04/15/11 (S) NR: GIESSEL
02/01/12 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/01/12 (S) Heard & Held
02/01/12 (S) MINUTE(FIN)
03/30/12 (S) FIN RPT CS (L&C) 4DP 2NR
03/30/12 (S) DP: HOFFMAN, THOMAS, EGAN, ELLIS
03/30/12 (S) NR: STEDMAN, OLSON
03/30/12 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/30/12 (S) Moved CSSB 119(L&C) Out of Committee
03/30/12 (S) MINUTE(FIN)
04/02/12 (S) TRANSMITTED TO (H)
04/02/12 (S) VERSION: CSSB 119(L&C)
04/03/12 (H) READ THE FIRST TIME - REFERRALS
04/03/12 (H) L&C, FIN
04/10/12 (H) L&C AT 4:00 PM BARNES 124

04/10/12 (H) -- MEETING CANCELED --
 04/11/12 (H) FIN AT 1:30 PM HOUSE FINANCE 519
 04/11/12 (H) <Pending Referral>
 04/11/12 (H) L&C AT 3:15 PM BARNES 124
 04/11/12 (H) Heard & Held
 04/11/12 (H) MINUTE(L&C)
 04/12/12 (H) FIN AT 9:00 AM HOUSE FINANCE 519
 04/12/12 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

KONRAD JACKSON, Staff
 Representative Kurt Olson
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Explained the changes in the proposed committee substitute (CS) for HB 266, Version Y.

CHRISTOPHER CLARK, Staff
 Representative Cathy Munoz
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Testified during the discussion of HB 266.

DON HABEGGER, Director
 Division of Business and Professional Licensing
 Department of Commerce, Community & Economic Development (DCCED)
 Juneau, Alaska

POSITION STATEMENT: Answered questions during the discussion of HB 266.

SAM GOTTSTEIN, Staff
 Senator Bill Wielechowski
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor of SB 27, Senator Bill Wielechowski.

JEFF TUCKER, Fire Chief
 North Star Volunteer Fire Department;
 Immediate Past President, Alaska Fire Chiefs' Association (AFCA)
 Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 27.

KRISTIN RYAN, Director
 Division of Environmental Health
 Department of Environmental Conservation (DEC)

Anchorage, Alaska

POSITION STATEMENT: Testified and answered questions on SB 27.

DAVID HEIMBACH, Physician

Seattle, Washington

POSITION STATEMENT: Testified on behalf of himself during the discussion of SB 27.

STEVE RUBRIGHT

Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of SB 27.

CHARLES KLEVER

Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 27.

PAMELA MILLER, Executive Director; Biologist

Alaska Community Action on Toxics

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 27.

ANDREW MCGUIRE, Executive Director

Trauma Foundation

San Francisco Hospital

San Francisco, California

POSITION STATEMENT: Testified during the discussion of SB 27.

GORDON NELSON, PhD

Vice President for Academic Affairs; Professor of Chemistry

Florida Institute of Technology

Melbourne, Florida

POSITION STATEMENT: Testified during the discussion SB 27.

ACTION NARRATIVE

[3:28:03 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:28 p.m. Representatives Thompson, Saddler, Johnson, Holmes, and Olson were present at the call to order.

HB 266-PRACTICE OF NATUROPATHY

[3:28:18 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 266, "An Act relating to the practice of naturopathy; and providing for an effective date."

[3:29:14 PM](#)

REPRESENTATIVE JOHNSON moved to adopt the proposed committee substitute (CS) for HB 266, labeled 27-LS1110\Y, Martin, 4/12/12 as the working document.

[3:29:28 PM](#)

CHAIR OLSON objected for purpose of discussion.

[3:31:15 PM](#)

The committee took an at-ease from 3:31 p.m. to 3:34 p.m. due to technical difficulties.

[3:34:21 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, introduced himself and explained the changes in the proposed committee substitute (CS) of HB 266, Version Y, from the original bill. He explained that at the initial hearing for HB 266 the bill sponsor, Representative Cathy Munoz, and a representative of the naturopaths, Dr. Jasper, expressed concern about erosion of the scope of practice for the naturopaths. The naturopaths indicated they were not interested in an expansion of their practices, but would like to protect their current scope of practice.

[3:35:26 PM](#)

CHAIR OLSON noted that Representative Gara has joined the meeting.

MR. JACKSON explained that efforts were initiated by the Department of Commerce, Community & Economic Development (DCCED) to make changes to current regulations for naturopaths. The naturopaths wanted to move regulatory language to statute. He related his understanding that the bill went through a number of iterations due to discussions between staff, the bill sponsor, the medical doctors, pharmacist, and naturopaths.

[3:36:22 PM](#)

MR. JACKSON related that HB 266, Version Y, is an attempt to be clear that the naturopaths' scope of practice is not expanded or erode the scope of practice, but to statutorily lock in the scope of practice for naturopaths in Alaska. He reviewed the changes beginning with Section 1 (A), page 1, lines 7-10, which reads, "...except as in subsection (b) of this section;.... Thus naturopaths would not be able to give, prescribe, or recommend in their practice a prescription drug except as provided in (b) of this section. He then referred to proposed Section 2 (b), which read, "Notwithstanding (a)(1)(A) of this section, a person who practices naturopathy may give, prescribe, or recommend in the practice a device or a homeopathic remedy." This proposed section goes on to discuss the status of a drug a naturopath may give or prescribe with respect to compounding, and in proposed subsection (d) on page 2, lines 5-6, with respect to Medicaid reimbursement. He referred to proposed Section 3, on page 2, lines 28-29, that adds a new paragraph (8), which reads, "has procured, sold, prescribed, or dispensed drugs in violation of a law regardless of whether there has been a criminal action." He clarified that this section relates to grounds for suspension, revocation, or refusal to issue a license for a naturopath. He indicated proposed Section 4, would amend the definition of naturopathy in AS 08.45.200(3), by adding the following language, "a dietetic remedy, an herbal remedy, a homeopathic remedy"

[3:38:48 PM](#)

MR. JACKSON related that proposed Section 5 would add definitions for dietetic remedy, herbal remedy, homeopathic remedy, and hydrotherapy to AS 08.45.200. Proposed Section 6 relates to Medicaid reimbursement and proposed Section 7 adds an immediate effective date. He reiterated that Version Y attempts to define the scope of practice for naturopaths, also give the department clear guidelines for regulations, and give pharmacists a clear definition of what they may or may not fill for naturopathic patients.

[3:39:54 PM](#)

REPRESENTATIVE SADDLER referred to page 3, line 18. He asked for clarification on the language "... the department may not offer services for prescribed drugs given or prescribed by a naturopath."

MR. JACKSON answered this language to ensure naturopaths are not eligible for Medicaid reimbursement which may not be necessary

since the bill does not expand the prescriptive scope of practice. He pointed out a minor expansion of practice is allowed since the bill allows naturopaths to write prescriptions for homeopathic remedies, such as capsicum. He referred members to language on page 2 lines 5-7.

CHAIR OLSON removed his objection. There being no further objections, Version Y was before the committee.

[3:41:31 PM](#)

CHRISTOPHER CLARK, Staff, Representative Cathy Munoz, Alaska State Legislature, explained that there has not been support for Version Y. He disagreed that naturopaths who are writing prescriptions for homeopathic remedies creates an expansion of the practice of naturopathy. He agreed to disagree with that remark. Furthermore, the language in Version Y would not allow for the sterile versions of B-12, vitamin C and B-complex vitamins that naturopaths would provide in an injectible form to be dispensed so the argument could be made that Version Y represents a diminishment or reduction of the scope of practice for naturopaths. He asked to make sure the record was clear with respect to the practice of naturopathy.

[3:42:26 PM](#)

CHAIR OLSON pointed out some things had been discovered during the work on this bill, including that some action was taken against some naturopaths whose practice was not supported by regulation. He highlighted that even though some naturopaths (NDs) had been practicing out of the scope of their practice for years that they have not been entitled to do so. He said that Version Y brings the regulations in alignment with existing statutes. He agreed it removes some types of things the naturopaths have been doing, but not necessarily doing so under the statutory authorization. He related several active investigations have transpired that found NDs working well outside the scope of practice, including prescribing injectible drugs - schedule 1 and schedule 2 drugs - and using out of state prescription pads. He clarified that the purpose of Version Y is to align the regulatory language with the current statutes and not necessarily to endorse what NDs have been doing in their practice. He appreciated the work that the sponsor's staff, Christopher Clark put into the bill.

[3:44:16 PM](#)

REPRESENTATIVE THOMPSON moved to report the proposed committee substitute (CS) for HB 266, labeled 27-LS110\Y, Martin, 4/12/12 out of committee with individual recommendations and the accompanying fiscal notes.

[3:45:04 PM](#)

The committee took an at-ease from 3:45 p.m. to 3:46 p.m.

[3:46:27 PM](#)

REPRESENTATIVE THOMPSON [withdrew] his motion to report the proposed committee substitute (CS) for HB 266, labeled 27-LS110\Y, Martin, 4/12/12 out of committee.

[3:46:45 PM](#)

DON HABEGER, Director, Division of Business and Professional Licensing, introduced himself.

[3:46:52 PM](#)

CHAIR OLSON asked whether Version Y meets the intention to bring the regulations into conformance with statutes and not yet expand the scope of practice for naturopaths.

MR. HABEGER answered that the statute clearly does not allow prescriptive authority for naturopaths. Some time ago regulations were written that have been interpreted by the department over time to mean no prescription authority. He said he referred early on to the original letter that was used as the foundation for today's interpretation. He offered his belief that Version Y is compliant with the division's interpretation of current statutes and regulations.

[3:47:57 PM](#)

CHAIR OLSON stated that he would set aside HB 266.

[HB 266 was held over.]

The committee took an at-ease from 3:47 p.m. to 3:49 p.m.

SB 27-FLAME RETARDANTS /CHEMICALS CLEARINGHOUSE

[3:49:47 PM](#)

CHAIR OLSON announced that the next order of business would be CS FOR SENATE BILL NO. 27(HSS), "An Act relating to flame retardants and to the manufacture, sale, and distribution of products containing flame retardants; relating to a multistate chemicals clearinghouse; and providing for an effective date."

[3:50:26 PM](#)

SAM GOTTSTEIN, Staff, Senator Bill Wielechowski, Alaska State Legislature, responded to earlier testimony on the proposed Environmental Protection Agency's (EPA) voluntary phase out. He related his understanding that the EPA's phase-out is a proposed voluntary phase out for U.S. manufacturers to be done at the end of 2013, prior to the effective date of SB 27, Version E. However, Version E does not affect imports so eventually U.S. manufacturers may be complying with the voluntary phase out, but the U.S. could still import toxic chemicals into Alaska with the number of known health effects. He related numerous questions on the definitions in the bill were raised. He offered his belief that SB 27 seems the intent is to protect Alaskan retailers. He emphasized that SB 27 is friendly to Alaska businesses and protects retailers in the state. He related that SB 27 addresses some of the concerns raised by the committee. First, it would delay the effective date until 2014. Second, the bill will exempt used products, such as items sold in thrift stores. Additionally, the bill would apply to products brought into Alaska prior to the effective date. Thus a local retailer or manufacturer/distributor could bring in products until December 31, 2013 and sell those products at a later date. He suggested this should allow ample time for retailers to shift to safe products. He highlighted that 12 other states and the European Union and Wal-Mart have already banned the chemicals. He referred to definitions for distributors and retailers. He offered his belief that if he bought something from Costco that Costco would be acting as a retailer and the sale would not apply to this bill. He pointed out that he has researched Mattress Ranch, which sells approximately ten brand names of mattresses with different styles. He offered his belief those brands would be considered the manufacturers while the Mattress Ranch is considered the retailer. He suggested that Terry Bannister, the bill drafter, is available to answer questions on definitions in more detail.

[3:53:21 PM](#)

MR. GOTTSTEIN stated that more importantly is to ensure Alaska businesses will not penalized. He suggested the DEC has

indicated that using fines are used as a last resort. Further, similar pieces of legislation have been passed, but fines are typically not used by the DEC.

[3:54:18 PM](#)

REPRESENTATIVE JOHNSON asked whether Wal-Mart has taken a position on the bill.

MR. GOTTSTEIN recalled that from previous testimony on the bill by some people who have worked with Wal-Mart that Wal-Mart has worked to ensure their products are PBDE free. He recalled during the previous summer that Wal-Mart performed enhanced testing procedures to ensure their products are PBDE free and Wal-Mart has broadcast to its suppliers that they will not accept products containing the toxic chemicals. He offered to provide more specific details.

[3:55:26 PM](#)

REPRESENTATIVE JOHNSON recalled that Wal-Mart has opposed flame retardant bills in the past, but it may have been in response to last year's bill. He pointed out that Wal-Mart is acting voluntarily, which he suggested provide a much smoother business transition for them than to have it mandated.

[3:55:46 PM](#)

JEFF TUCKER, Fire Chief; , North Star Volunteer Fire Department, Immediate Past President, Alaska Fire Chiefs' Association (AFCA), stated that the AFCA supports the phase out of PBDEs due to concerns with the health risks associated with exposure. The AFCA believes that the bill is a step in the right direction to improve the health and safety of firefighters in the community. He also stated that protecting firefighters and building occupants is critical, but these goals can be achieved without exposing themselves to this particular class of toxic chemicals. He pointed out that when PBDEs burn they release fumes that reduce visibility and produce highly corrosive gases. The AFCA supports the use of flame retardants since alternatives do not contain bromine. He encouraged committee members to pass the CS for SB 27.

[3:57:08 PM](#)

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), stated that

civil fines are simply one tool in the DEC's toolbox. The DEC has several programs with regulatory authority to assess fines, but fines are a rare tool and represent the last resort typically used for noncompliance. She referred to earlier discussions which clarify that a retailer is selling directly to a consumer whereas a distributor is someone selling to another distributor or a retailer. She pointed out that this bill seems to target manufacturers and distributors, which would most likely be out of state companies. She reported she spoke to her counterparts in some Pacific Northwest states, such as Oregon and Washington have similar programs. She said the DEC would have a pathway to implement its program in the state. She stated that the DEC has a fish tissue testing program that has collected over 500 samples of fish statewide that contain PBDEs. She reported that the DEC is finding PBDEs at various levels in the state. She emphasized that the most likely source of PBDEs is in homes and from discharge via septic systems and the wastewater treatment plants - which do not remove the chemicals - and not the environment. Thus if Alaska's environment contains PBDEs our homes also contain PBDEs. She highlighted some evidence that PBDEs show up in our fish, but she stated she has not done much research into the human exposure element since it falls under a different department's authority. She concluded that the DEC's fish tissue testing program has been reviewing mercury and other contaminants of a health concern are starting to find PBDEs as well.

[4:00:10 PM](#)

REPRESENTATIVE JOHNSON asked for an explanation about the septic system. He asked for the linkage.

MS. RYAN answered that she can provide some materials that identify the pathway. She said that it has been pretty well documented that flame retardants exist in personal products in our homes, in products such as televisions, computers, and couches. The polymer does not bind with the product it has been applied to so PBDEs falls out as dust, is consumed by people as they touch the products, and passes through our bodies into the sewage outfalls. Further, the products enter the pathway through the process of washing clothing. She clarified that the PBDEs are not added to clothing.

[4:02:05 PM](#)

REPRESENTATIVE JOHNSON asked for a list of the source of the 500 fish samples at some point.

MS. RYAN agreed to provide it.

REPRESENTATIVE JOHNSON further asked broadly which fish species were sampled.

MS. RYAN answered that salmon and Arctic char were tested. She offered her belief that the most disturbing aspect discovered in sampling is that the small fry seems to have the highest levels of PBDEs. She suggested this may be a biomass issue. She concluded that the department has sampled a large variety of species of fish found in Alaska.

[4:03:09 PM](#)

REPRESENTATIVE JOHNSON further asked for the percentage of the fish that had some contamination.

MS. RYAN answered yes. She offered to provide all the data. In further response to Representative Johnson, she confirmed the department has found various levels depending on the species of fish, the geographic area, and the age of the fish.

[4:03:42 PM](#)

CHAIR OLSON asked her to respond to the direction the EPA is taking on PBDEs.

MS. RYAN offered her belief that the EPA is trying to ban flame retardants since they are dangerous to public health and are persistent in our environment. Unfortunately, in her view, the EPA does not have adequate authority to deal with chemicals in personal products so they cannot ban them even though they described in the Federal Register their concerns about flame retardants and the risks. She reported the EPA has banned new uses of flame retardants; however they have been unable to restrict the use of chemicals already in commerce. She referred to voluntary measures which are related to agreements the EPA has made with local manufacturers in the U.S. to stop producing the chemicals and use alternatives. She said that process is proceeding, but the majority of the products containing flame retardants do not come from the U.S.

[4:05:14 PM](#)

CHAIR OLSON asked whether the EPA has gone far enough or too far.

MS. RYAN offered her believe that the PBDEs in flame retardants are problematic so she thinks a ban is a good thing.

[4:05:48 PM](#)

REPRESENTATIVE THOMPSON recalled some doctors think banning PBDEs is premature. He asked whether enough alternative products exist to protect children from burns. He further asked whether the new products have been tested and if other problems may arise in a few years.

MS. RYAN agreed with the concern. She stated the bill would give the department the ability to consider the alternatives to flame retardants and assess the risks. She said there are alternatives and several states have banned PBDES and some companies are using safer alternatives. She noted that PBDES give people about 11 more seconds to flee. She related a scenario in which a person is on a bed which catches on fire, and if the mattress contains PBDEs the person would have 11 more seconds before the mattress bursts into flames. She was unsure the 11 seconds was worth the risk from chemicals persisting in the environment. She said products are being made in safer ways. She explained that cigarettes go out as do candles. She pointed out that improvements in fire safety have occurred in past 20 years. She emphasized that alternatives have been found to be safer than PBDEs.

[4:08:14 PM](#)

REPRESENTATIVE HOLMES clarified that the 11 seconds is the escape time flame retardants provide as compared to not using any alternative fire safety. She further clarified that the bill is not advocating not using other fire safety. She reiterated that using PBDEs would provide 11 seconds more as opposed to not using any of the fire safety alternatives in mattresses or furniture.

MS. RYAN answered yes.

REPRESENTATIVE HOLMES emphasized that the bill does not advocating giving up the 11 seconds, but rather to use another type of flame retardant.

REPRESENTATIVE JOHNSON remarked that 11 seconds is a long time.

CHAIR OLSON remarked that everyone around the table figures 11 seconds could help them flee from the bedroom.

4:09:00 PM

DAVID HEIMBACH, Physician, speaking on behalf of himself, stated that he has served as the director of the University of Washington (UW) Burn Center in Seattle, Washington. For 35 years the UW Burn Center has treated almost all of the major burns in Alaska and for the last 10 years have treated all of them since the burn unit in Alaska is closed. He stated that he has served as the President of the American Burn Association, the International Society for Burn Injury, and has been awarded numerous awards for his work in developing countries regarding burn and fire safety. He made three points. First, there is not any question that fire retardants give people more time to escape fires. The burn center cares of 900 burn patients per year. He clarified he is speaking not for the burn center or UW, but for himself. About one-third of his patients are children. The vast majority of his juvenile patients are covered under Medicaid. The other people at risk, who need that 11 seconds to escape is the elderly - which he actually thinks it is longer than 11 seconds - but the elderly are also at risk for not being able to get out from a fire quickly. It costs approximately \$6,000 per day in the burn center's intensive care unit (ICU). A child with a 40 percent of his/her body burned will likely stay in the hospital for 1.5 to 2 days for each percentage of burn. This would total about 80 days stay in the ICU for a cost of \$500,000, which is a substantial cost to the state. He calculated by multiplying the cost by the number of patients gives the sense of the substantial expenses incurred for burn patients. He cautioned members to be careful before banning substances and to compare the risks to the consequences. Second, he suggested that Dr. Gordon Nelson would discuss the safety issues. He said he has no problem with polybromides being banned since they are being voluntarily removed by the EPA. He turned to the earlier comments on the risk to firefighters, who are concerned about inhalation. He pointed out that pure pine smoke in and of itself contains 250 known toxic chemicals, which can be tripled for plastics since they contain about 700 toxic chemicals. The addition of small amounts of the newer products does not add to the problem of smoke inhalation. He reiterated that he has studied smoke inhalation his entire medical career. He reiterated his cautions. Be careful about banning products shown to be safe. The U.S. is removing the ones that have been shown to be harmful. The European Union and Environmental Protection Agency

(EPA) and Canada have declared the newer products to be without risk to humans.

[4:14:07 PM](#)

REPRESENTATIVE HOLMES asked whether he was speaking for or against the bill. She has heard good substitutes are available.

DR. HEIMBACH answered that he is not supporting SB 27. He explained not good substitutes that have been studied as much as the current chemicals. It would be necessary to watch these new chemicals for 10-15 years before they get into the food chain and environment. He reiterated the new chemicals are not tested and may cause cancer or other issues. He related that children's sleepwear now is tighter fitting than it once was so it does not require flame retardants. In 1972, kids would lick their clothes and the chemicals were found to be mutagenic. He pointed out that now that clothes are better, but there is not a chemical substitute for anything that resembles the safety provided by the PBDEs. He related that Dr. Nelson could to speak to this.

[4:16:11 PM](#)

STEVE RUBRIGHT, on behalf of himself, related his understanding that some alternatives exist, but he hasn't heard of any substitute for fire retardants that seems to save lives. He recalled testimony that new drugs could be studied. He commented that fire spreads quickly and 11 seconds is a lot of time during a fire. He thinks this bill is premature since in 2013 the federal government is taking a nationwide approach to address the issue. He expressed concern about the bill.

[4:17:56 PM](#)

CHAIR OLSON responded that this bill has an effective date of July 1, 2014, in order to allow the EPA to promulgate regulations and give the states time to decide whether the regulations are adequate or if other changes are necessary.

[4:18:28 PM](#)

CHARLES KLEVER, speaking on behalf of himself, related he is in the construction industry. He expressed interest in the use of PBDEs since flame retardants are used in welding clothes and other shop clothing. He noted an exemption for industrial use; however, he was unsure about the industrial use for clothing.

He also shared his concern about testimony that indicates PBDEs were studied for a couple of years; however, the levels were not quantified. He said a couple years of study does not seem like due diligence. Additionally, he is from Oregon. He recalled the DEC suggested following Oregon; however, he characterized following Oregon as a slippery slope.

[4:20:31 PM](#)

PAMELA MILLER, Executive Director; Biologist, Alaska Community Action on Toxics, stated that she previously testified and is speaking strongly in support of SB 27 for public health reasons and to protect vulnerable populations including children and firefighters.

[4:21:26 PM](#)

ANDREW MCGUIRE, Executive Director, Trauma Foundation, San Francisco Hospital, stated he has been involved in fire and burn prevention for 39 years. He stated he has led two successful campaigns. First, he led a campaign to get children pajamas mandated flame resistant as an effort in Massachusetts that became a federal standard. The standard for children's pajamas took effect in the early 70s and by March 1977, there were no longer chemicals used in children's pajamas. Instead, children's pajamas were made out of modaacrylic and polyester or other synthetic fibers, but without using any chemicals. He pointed out that synthetic fibers are fire resistant. Thus he clarified that chemicals are not used in clothing. Second, he led a campaign to mandate that all cigarettes become self-extinguishing or fire safe so they do not ignite mattresses or furniture. He clarified that manufacturers do not make cigarettes safe by adding chemicals. Instead, the cigarette paper is slightly thicker in several areas since oxygen cannot penetrate the thicker paper.

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MR. MCGUIRE answered several questions raised. First, manufacturers can make fire safe mattresses, electronics, and furniture without using chemicals. He stated that is absolutely true for upholstered furniture, in fact, there is a federal draft standard by the U.S. Consumer Product Safety Commission that many believe will be promulgated in the next year or so which lays out all criteria. He elaborated that it has to do with the weave and thickness of fabric and if a synthetic barrier or cloth can be used between the fabric and the foam.

More importantly, when it comes to furniture the standard for furniture in North America is to add flame retardants to the foam of furniture, not to the fabric. He offered his belief that it has been shown in the peer review literature that flame retardants does not offer fire safety since the way a fire starts is the fabric ignites first. Once the fabric ignites the flames are large enough to overcome the fire retardant safety factor in the foam. He suggested that if people wanted to use flame retardants effectively, the flame retardants would be used in the fabric and not underneath the fabric. He emphasized that there is not any peer review literature or scientific articles on the efficacy of fire safety of chemicals used in furniture.

MR. MCGUIRE stated that secondly, the data does not show a fire problem exists for cases - containing chemicals used in the plastic cabinets - of televisions and other electronic products; however, there is a push by the chemical industry for a flame standard so a candle can't ignite a plastic case. He highlighted that electronic fires typically start on the interior with overheating of products inside the television.

MR. MCGUIRE pointed out other methods exist for fire safety without adding PBDEs or other fire retardant chemicals to the plastic. He cautioned that a phony organization has been created by chemical industry called Citizens for Fire Safety. He pointed out that when Dr. David Heimbach testified in California the last time he testified he said, under oath, his way was had been paid to that hearing by the chemical industry. He said the same is true with Dr. Gordon Nelson. He related they were the only outsiders to testify on a related fire-retardant issue and they both claimed their way was paid by the chemical industry. He offered his belief that when someone identifies their affiliation they should also include the information that they are speaking on behalf of the chemical industry. He said the IRS 990 filings for Citizens for Fire Safety states its mission as one "to promote the common business interests of the chemical manufacturing industry." However, their website indicated the organization was founded as a California nonprofit seeking to educate the public on fire safe practices within the home as well as empower those organizations charged with protecting the public safety. He reiterated his belief that this is a phony organization. Further, a similar organization was created by the tobacco industry to fight the fire safe cigarette campaign for 28 years. He surmised the person ultimately behind creating the phony organization on behalf of the tobacco institute is the same person who works for the chemical industry to help create this organization. He

emphasized that legislators must be alerted to the fact that these groups are created with names that sound legitimate, but are simply funded by the chemical or tobacco industry.

[4:28:37 PM](#)

GORDON NELSON, PhD, Vice President for Academic Affairs; Professor of Chemistry, Florida Institute of Technology, stated that he is a university chemistry professor at Florida Institute of Technology. He said he has had a long career in academia and industry. He related he has been burning plastic items and working on flame retardants for about 30 years. He said he has been interested in listening to the testimony, but unfortunately there is a lot of information that does not provide the total picture. First, he reported that the EPA voluntary phase out is not proposed, but is underway. The agreements were executed with EPA on December 15, 2009 by each of the three world's largest flame retardant suppliers. The agreement indicated that by December 31, 2010, the sales of decaBDE would be phased out for electrical and electronic equipment. Additionally, by December 31, 2012, all uses except transportation military will be phased out. He reiterated that the agreement is an agreement between the three suppliers and the EPA, which included phase-out of imports as well. He stated this affects not just what is being manufactured in the U.S., but also their involvement with imports.

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DR. NELSON he pointed out that pentaBDE and octaBDE BDEs have not been manufactured since 2004. He suggested the committee may wish to think about codifying the EPA agreements. He identified two differences between SB 27 and the EPA phase-out. First, the phase out include military uses, specifically, since those can be large products and difficult to find alternatives. Second, the EPA agreement exempts products from recycling. He pointed out that post-consumer recycle of products containing decaBDE is not affected. Further, the sale of products made from recycled products containing PBDEs will not be affected.

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DR. NELSON stated in the 1970s he worked for General Electric Corporation and during that time he burned some of the first televisions made with decaBDE and polystyrene. He reported that the number one application for decaBDE has been in televisions, but not in computers. He related that in the U.S. in the 1970s

there were 200 fire deaths per year caused by television fires, 800 life-threatening fires, and 20,000 television fires in the nation. The Underwriters Laboratories (UL) requirements came forward with a voluntary standard, which was used instead of a mandatory process. He stated that the team questioned whether the requirements to go to flame retardant plastic would make a difference. He described the testing procedures for televisions by igniting the tuner bracket to create an internal fire and without flame retardants in three parts - the antenna bracket, the tuner bracket, and the enclosure - the tests created a life-threatening fire from a single television in a 10 by 10 foot room in five minutes. Additionally, the team tested the same three parts made using polystyrene containing decaBDE and was not able to ignite the parts, even using outside ignition by using paper. Instead, the enclosure melted. Finally, the team concluded that the use of flame retardants would eliminate deaths from televisions and that is what has happened. He concluded that when people say the use of flame retardants does not have a substantial life-safety record they are wrong.

[4:36:09 PM](#)

DR. NELSON turned to the extra 11 seconds escape time provided by flame retardants. He offered his belief that is a test with no relationship to a risk for fire, as amplified by the use of flame retardants in televisions. The purpose of using flame retardants is to eliminate fires, make some fires much smaller, and make other fires take a much longer time to ignite. He agreed with earlier testimony that 11 seconds could allow a person to escape.

[4:36:52 PM](#)

DR. NELSON recalled earlier testimony on proposal by the Consumer Product Safety Commission's (CPSC) proposal to upholster furniture using a smoldering test. He said that CPSC has tried with extensive furniture industry opposition to get a national test for furniture for decades. The use of smoldering only test rather than an open flame as used in California belies the fact that 50 percent of fire deaths from upholstered furniture in the U.S. are caused from open flame or electrical sources rather than cigarettes. He credited the statistics to the latest National Fire Protection Association (NFPA) statistics.

[4:37:45 PM](#)

DR. NELSON said first, pentaBDE and octaBDE no longer exist. Second, the EPA has a detailed process which will lead to phase out for decaBDE, which is largely completed. Finally, he spoke to the difficulty the department will have to find fire retardant alternatives. He acknowledged there may be alternatives, but asked whether the product will serve the function. He offered his belief that it will not be easy to determine since hundreds of flame retardants exist, but not all work in every circumstance which is why decaBDE was used in televisions and pentaBDE was used in foam. He related that decaBDE is used in sophisticated materials, such as shipping pallets; however, the most promising alternatives end up with a substantially heavier pallet, which is above 50 pounds. He stated that 50 pounds is the limit that a single person may lift under Occupational Safety and Health Administration (OSHA) regulations so the alternative does not allow the product to be used. He predicted the DEC will have grave difficulty in finding alternatives that are safer for the environment. He urged members not to support SB 27.

[4:40:18 PM](#)

REPRESENTATIVE HOLMES related her understanding all three forms of the PBDEs are going to be phased out by the EPA long before the bill goes into effect so she did not understand the reason to object to the bill.

DR. NELSON answered that pentaBDE and octaBDE aren't being made and decaBDE is in a phase-out process. He offered his belief that SB 27 does not exempt military or post-consumer recycling, which would be permitted under the EPA. He said he fully understands the reasons legislators may want to codify the EPA agreement, but certainly there are some chemical suppliers in China and other places; however, the voluntary agreement has been carefully crafted and the exemptions are in place. He submitted that the bill certainly won't do much to change the disappearance of the phase-out that is already underway for PBDEs.

[4:42:15 PM](#)

REPRESENTATIVE JOHNSON asked for the history of the chemicals.

DR. NELSON answered that decaBDE was invented by DOW Chemical Company, which was extensively tested. He reported this discovery came at a time when televisions were burgeoning and the fire issue had emerged. He related that decaBDE was the

perfect flame retardant for polystyrene. He reported the requirements for televisions were imposed between July 1, 1975 and 1979 and television manufacturers began using decaBDE in 1975. He recapped that decaBDE was invented in 70s and was heavily into market by 1975.

[4:43:35 PM](#)

REPRESENTATIVE JOHNSON asked for the length of time before the "red flag" went up to indicate decaBDE posed health hazards.

MR. NELSON answered it took approximately 20 years.

REPRESENTATIVE JOHNSON asked whether it may take 20 years to find out if new chemicals used as flame retardants are dangerous.

MR. NELSON responded that decaBDE passed European risk assessments, unlike pentaBDE and octaBDE, which did not pass. He said that decaBDE was extensively tested by DOW in 1970. He offered his belief that decaBDE is not a horrendously toxic chemical.

REPRESENTATIVE JOHNSON said his point is that any replacement may be worse for the environment than the current flame retardants.

MR. NELSON said he somewhat agrees, but in Europe and the U.S. use more extensive topological testing is occurring today than they did 30 years ago. He predicted that that it will be possible to understand things faster, in fact, a large number of flame retardant chemicals have been extensively examined in Europe.

[4:45:41 PM](#)

REPRESENTATIVE JOHNSON cautioned against moving forward with chemicals that are not as effective and could be more toxic. He offered his belief that the EPA phase-out is preferable.

REPRESENTATIVE THOMPSON recalled his testimony that pentaBDE and octaBDE are no longer being made but asked about imports from China. He questioned whether the chemicals are being made.

MR. NELSON answered that China is not using pentaBDE and octaBDE.

[4:46:24 PM](#)

CHAIR OLSON asked whether he could identify the number of deaths from decaBDE, pentaBDE, octaBDE per year.

MR. NELSON answered that in terms of toxicity to his knowledge there were none.

CHAIR OLSON pointed out that these chemicals are hazardous but the impacts are unknown.

MR. NELSON identified this as an important question. He emphasized that decaBDE has saved people's lives which has been quantified; however, he was not aware of any papers that quantify deaths from the topological properties of the materials.

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CHAIR OLSON commented that the U.S. can quantify the number of smokers that die each year from cigarette use, but the numbers are not available for these chemicals. He wondered if this bill is premature.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 27.

[SB 27 was held over.]

The committee took a brief at-ease.

[4:49:49 PM](#)

SB 119-ATHLETIC TRAINERS; INTERSCHOL. ACTIVITIES

[4:49:55 PM](#)

CHAIR OLSON announced that the final order of business would be CS FOR SENATE BILL NO. 119(L&C), "An Act relating to athletic trainers."

[4:50:09 PM](#)

CHAIR OLSON lifted his objection to the adoption of the proposed HCS to CSSB 119(L&C), Version 27-LS0732\X, Kirsch, 4/10/12, which was left pending at the April 11, 2012 meeting. There being no further objection, Version X was before the committee.

4:50:17 PM

REPRESENTATIVE HOLMES moved to adopt Amendment 1, labeled 27-LS0732\X.1, Kirsch, 4/13/12, which read as follows:

Page 3, line 28, through page 4, line 12:

Delete all material and insert:

"Sec. 14.30.365. Interscholastic activities; eligibility. (a) A full-time student who is eligible under (b) of this section who is enrolled in grades nine through 12 in an alternative education program that is located entirely in the state and that does not offer interscholastic activities is eligible to participate in any interscholastic activities program available in a public school

(1) that, based on the residence of the parent or legal guardian, the student would be eligible to attend were the student not enrolled in an alternative education program;

(2) at which the student is enrolled in one or more classes; or

(3) that is closest geographically to the school at which the student attends the alternative education program.

(b) A student is eligible to participate in interscholastic activities under this section if the student

(1) is otherwise eligible to participate in interscholastic activities under requirements established by the school, the school district, and the statewide interscholastic activities governing body;

(2) provides documentation, including academic transcripts, proof of full-time enrollment, and applicable disciplinary records, and, if required for participation in an activity by the school, requested medical records, to the school providing the interscholastic activities program; and

(3) claims the same school for interscholastic activities eligibility purposes during a school year."

Reletter the following subsection accordingly.

CHAIR OLSON objected for purpose of discussion.

4:50:36 PM

REPRESENTATIVE HOLMES explained that Amendment 1 relates to interscholastic activities and eligibility subsection of SB 119. The bill as drafted would allow students enrolled in alternatives programs that do not offered interscholastic activities to go to another school. She explained that she graduated from West High, but attended Steller Alternative High School for several years. She played sports at Romig Middle School and at West High School. Thus she came from a school without interscholastic activities, but attended a school that did; however, in her junior year she needed to take some math and science classes outside of Steller High School. At the time West High School had a rotating schedule that did not mesh with West High School so she attended Dimond High School for her math and science classes. She related that SB 119 would have required her to go to Steller, drive part way across town to take classes to take at Dimond, then drive back to West High School to participate in sports; alternatively at school attending one or more classes. She did not think this was the intent of the bill.

REPRESENTATIVE HOLMES explained that Amendment 1 would allow the student the option to attend the local district school for sports and activities. She referred to page 1, lines 11, participate in a school where the student is enrolled in one or more classes, such as when she took classes at Dimond High School; or third, to participate in interscholastic activities to the school which is closest geographically to the alternative high school the student attends. She related a scenario in which a student lives in south Anchorage, but attends Steller Alternative School, which does not provide bus services, but could easily travel to West High School, which is close to Steller Alternative High School. She related the third alternative is that the student could attend the school which is geographically close to the alternative school. She offered the goal to not disenfranchise students and to allow students to participate in after school activities.

4:54:10 PM

REPRESENTATIVE SADDLER suggested that Amendment 1 seems somewhat convoluted. He referred to paragraph 2. He related that a student enrolled in alternative school or is homeschooled. He asked whether Amendment 1 would require the student to take one class at the public school.

REPRESENTATIVE HOLMES answered that is an "or" so it is an either or to allow for more options. She suggested the activity could be orchestra, band, or drama club. She explained that it may be important for homeschooled students to their socialization. She explained that students attending an alternative school or a private school may need options, too. She characterized her intent is to make it as inclusive as possible.

[4:56:23 PM](#)

REPRESENTATIVE JOHNSON asked for clarification on Amendment 1. He asked if a student lives in South Anchorage and attends Steller Alternative High School whether the student would need to attend West High School or could attend one close to his/her home.

REPRESENTATIVE HOLMES agreed.

REPRESENTATIVE JOHNSON noted the definitions had not been changed.

[4:57:26 PM](#)

REPRESENTATIVE SADDLER related his understanding the original bill was written to prevent school shopping if a student wanted to play on a good hockey team. He related a scenario in which a student under paragraph 2 could take one class at a school, not limited to the same district. He wondered how it would affect a student already taking a full load of classes. He further asked whether the student who is homeschooled would need to take a class in a public school. He referred to paragraph 3, which would mean that a student living in South Anchorage, attending the IDEA program, would be limited to take a class in Galena since that is the closest geographically to his/her program. He also asked how many people would be affected since her circumstance seemed somewhat unusual.

REPRESENTATIVE HOLMES answered that SB 119 could potentially affect any home schooled or alternative school student who chooses to play sports or to participate in activities. She offered her belief that it could affect a lot of students. She suggested the original drafting might pose problems with respect to rides to attend. She recalled she was able to carpool; however transportation may be an issue for some students, which is why she developed options in Amendment 1.

5:01:06 PM

REPRESENTATIVE JOHNSON expressed concerns that some people might attempt to obtain an outstanding athlete under Amendment 1 by getting them to take to a class. He related a scenario in which an outstanding athlete attends Grace Christian School or Saint Mary's Catholic School and the coach is willing to pick them up and drive them to any school. He stated that he comes from a competitive sports area so he could envision issues arising. He concluded that Amendment 1 has unintended consequences. He understood Representative Holmes is trying to fix the issue for homeschool or alternative school students, but he did not want to open it up to allow people to stack a team with outstanding athletes. He reiterated he wanted to avoid the temptation of abuses to happen. He suggested he may need to mull over Amendment 1.

5:03:43 PM

REPRESENTATIVE HOLMES stated this bill would have excluded her from participating in activities. She had transportation issues.

REPRESENTATIVE JOHNSON suggested one solution may be to create priorities for students who need to take the classes for graduation, the option would be a priority, but if the classes were available at his/her own school the student could not attend.

REPRESENTATIVE HOLMES considered his suggestion to be a friendly amendment.

5:04:45 PM

CHAIR OLSON suggested the Amendment 1 be withdrawn and Representative Johnson and Holmes could develop the language to address the concerns.

REPRESENTATIVE HOLMES withdrew Amendment 1.

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on SB 119.

[SB 119 was held over.]

5:06:10 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:06 p.m.