

**ALASKA STATE LEGISLATURE**  
**HOUSE STATE AFFAIRS STANDING COMMITTEE**

April 14, 2011

8:07 a.m.

**MEMBERS PRESENT**

Representative Bob Lynn, Chair  
Representative Wes Keller, Vice Chair  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative Max Gruenberg  
Representative Pete Petersen  
Representative Kyle Johansen

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 94

"An Act adding a second verse to the official Alaska state song."

- MOVED SB 93 OUT OF COMMITTEE

HOUSE BILL NO. 149

"An Act relating to drivers' licenses and to immunity for persons who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle."

- HEARD AND HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 94

SHORT TITLE: SECOND VERSE OF ALASKA'S STATE SONG

SPONSOR(s): SENATOR(s) DAVIS

|          |     |                                   |
|----------|-----|-----------------------------------|
| 02/25/11 | (S) | READ THE FIRST TIME - REFERRALS   |
| 02/25/11 | (S) | CRA, STA                          |
| 03/08/11 | (S) | CRA AT 3:30 PM BELTZ 105 (TSBldg) |
| 03/08/11 | (S) | Moved SB 94 Out of Committee      |
| 03/08/11 | (S) | MINUTE(CRA)                       |
| 03/09/11 | (S) | CRA RPT 5DP                       |

03/09/11 (S) DP: OLSON, KOOKESH, WAGONER, ELLIS,  
 MENARD  
 03/09/11 (S) FIN REFERRAL ADDED AFTER STA  
 03/17/11 (S) STA AT 9:00 AM BUTROVICH 205  
 03/17/11 (S) Heard & Held  
 03/17/11 (S) MINUTE(STA)  
 03/22/11 (S) STA AT 9:00 AM BUTROVICH 205  
 03/22/11 (S) Moved SB 94 Out of Committee  
 03/22/11 (S) MINUTE(STA)  
 03/23/11 (S) STA RPT 4DP 1NR  
 03/23/11 (S) LETTER OF INTENT WITH STA REPORT  
 03/23/11 (S) DP: WIELECHOWSKI, MEYER, PASKVAN,  
 KOOKESH  
 03/23/11 (S) NR: GIESSEL  
 03/23/11 (S) FIN REFERRAL REMOVED  
 03/25/11 (S) FIN REFERRAL ADDED  
 03/30/11 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 03/30/11 (S) Heard & Held  
 03/30/11 (S) MINUTE(FIN)  
 04/01/11 (S) FIN RPT 7DP  
 04/01/11 (S) DP: HOFFMAN, STEDMAN, THOMAS, EGAN,  
 MCGUIRE, OLSON, ELLIS  
 04/01/11 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 04/01/11 (S) Moved SB 94 Out of Committee  
 04/01/11 (S) MINUTE(FIN)  
 04/08/11 (S) TRANSMITTED TO (H)  
 04/08/11 (S) VERSION: SB 94  
 04/09/11 (H) READ THE FIRST TIME - REFERRALS  
 04/09/11 (H) CRA, STA  
 04/12/11 (H) CRA RPT 6DP 1NR  
 04/12/11 (H) DP: CISSNA, DICK, AUSTERMAN, FOSTER,  
 GARDNER, MUNOZ  
 04/12/11 (H) NR: SADDLER  
 04/12/11 (H) CRA AT 8:30 AM BARNES 124  
 04/12/11 (H) Moved Out of Committee  
 04/12/11 (H) MINUTE(CRA)  
 04/14/11 (H) STA AT 8:00 AM CAPITOL 106

BILL: HB 149

SHORT TITLE: DRIVER'S LICENSING; MEDICAL CONDITIONS

SPONSOR(S): REPRESENTATIVE(S) FAIRCLOUGH

02/09/11 (H) READ THE FIRST TIME - REFERRALS  
 02/09/11 (H) STA, JUD  
 04/14/11 (H) STA AT 8:00 AM CAPITOL 106

**WITNESS REGISTER**

SENATOR BETTYE DAVIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 94, as sponsor.

SENATOR ALBERT KOOKESH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as co-sponsor in support of SB 94.

LORRAINE HAUSMAN  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 94.

CONNIE DAVIS  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 94.

PAMELA MARSCH, Staff  
Senator Bettye Davis  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Read the sponsor statement on behalf of Senator Davis, sponsor of SB 94.

REPRESENTATIVE ANNA FAIRCLOUGH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 149 as sponsor.

WHITNEY BREWSTER, Director  
Division of Motor Vehicles (DMV)  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 149.

ERLING JOHANSEN, Assistant Attorney General  
Labor & State Affairs Section  
Civil Division (Anchorage)  
Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 149.

**ACTION NARRATIVE**

8:07:15 AM

**CHAIR BOB LYNN** called the House State Affairs Standing Committee meeting to order at 8:07 a.m. Representatives Keller, Seaton, P. Wilson, Johansen, Petersen, and Lynn were present at the call to order. Representative Gruenberg arrived as the meeting was in progress.

**SB 94-SECOND VERSE OF ALASKA'S STATE SONG**

CHAIR LYNN announced that the first order of business was SENATE BILL NO. 94, "An Act adding a second verse to the official Alaska state song."

8:08:15 AM

SENATOR BETTYE DAVIS, Alaska State Legislature, as prime sponsor of SB 94, noted that the proposed legislation has passed the House on several occasions, but had not passed through the Senate until last year. She said the legislation last year ran out of time, and she expressed her hope that SB 94 would pass both houses by the end of session.

8:09:23 AM

SENATOR ALBERT KOOKESH, Alaska State Legislature, as co-sponsor of SB 94, said last year he never went to committee hearings on this legislation, and he said he thinks that was a mistake, because a Native perspective needed to be heard. He said he is an Alaska Native who served in the House for eight years and has finished a second term in the Senate. He said after reflection he has concluded that the bill is labored because of the word "Native" in its language. He said historically the words "tribe" and "Native" are not found in House legislation, and those words have been absent Senate legislation until the Senate recently formed a coalition.

8:11:57 AM

SENATOR KOOKESH opined that another reason the legislation has not been supported is that people do not want change. He talked about making history through adopting the second verse of the Alaska Flag song. He noted that none of the former sponsors of this legislation have been Alaska Native. He related that Alaska Natives are taught not to talk about themselves. He said

that by keeping quiet, the Alaska Native community has lost out on a lot over the years. For example, he said there is no representation of Alaska Natives on the Alaska State Seal. Senator Kookesh said Alaska Natives have been around the state for 10,000 years and have contributed to the state greatly, including over \$4 billion through the Native corporations and a recent win of the Iditarod by an Alaska Native. He said a Native lad did, in fact, design the Alaska Flag; therefore, people should not be ashamed to recognize that. He said that acknowledgement would not give sovereignty to Alaska Natives, but it would help them lift their faces just a little bit.

SENATOR KOOKESH said his purpose is not to criticize, but to ask for help. He said the Alaska Natives are an intrinsic part of the state, but cannot get the second verse adopted without help. He expressed his hope that the legislature will support SB 94 and not oppose it because of the word "Native".

[8:19:35 AM](#)

CHAIR LYNN expressed his support of SB 94.

[8:19:40 AM](#)

REPRESENTATIVE P. WILSON said it hurts her to hear that Senator Kookesh would say she would not vote for the second verse because of the word "Native".

SENATOR KOOKESH emphasized that he was relating an historical aspect. He related that as an Alaska Native he has witnessed prejudices in history books, and the prejudice still exists. However, he said he would not come before the committee if he thought its members would vote against the bill because of the word "Native".

REPRESENTATIVE P. WILSON said she has had Natives come to her and ask her not to support this legislation. She expressed her wish for the future to be the focus, not the past.

KOOKESH responded that Representative Wilson's past and his own are not the same, and it would be wrong of him to forget the past through which he has lived. He acknowledged that there will always be those who do not agree - for example, the Native people of Alaska do not agree unanimously on the issue of subsistence - but there are some Natives who do support the bill.

[8:24:14 AM](#)

REPRESENTATIVE JOHANSEN relayed that in Ketchikan there were bars where Natives and non-Natives could not drink together, and those people are still alive and remember that. He said he thinks that is what Senator Kookesh is talking about. He said that he was ambivalent about SB 94 when he arrived this morning, but was moved by Senator Kookesh's testimony. He related a story from his youth where inequality was pointed out to him.

[8:28:24 AM](#)

REPRESENTATIVE SEATON talked about his involvement with coastal use and subsistence, a lot of which is Native use. He stated that the House has been actively engaged in issues that are vital to rural Alaskans, so that those who live on local lands - mostly but not exclusively Alaska Natives - have a voice in the impact of development in their communities. He emphasized that although everyone is not always in agreement, that does not mean "we don't agree on things." He pointed out that many of his constituents live in Native communities, and he related that he has been contacted by Native Alaskans who are opposed to SB 94, but not by any who support it. He said he does not know if that is because of the issue of not talking about oneself. Whether or not legislators support SB 94 has nothing to do with whether they support one Native voice or another, he stated. He opined that the House and the House Resources Standing Committee, which he co-chairs, is working strongly to ensure that all Alaskans have opportunities.

[8:31:39 AM](#)

SENATOR KOOKESH acknowledged that things have changed; he said he no longer feels animosity within the walls of the Capitol, but said it was not that way when he first arrived. He agreed that the legislature makes decisions to benefit all Alaskans.

[8:33:01 AM](#)

REPRESENTATIVE PETERSEN talked about the unique struggles in America and the progress that has been made. He said he voted in favor of the legislation in its last run, and plans to do so again.

SENATOR KOOKESH stated for the record that the following entities support SB 94: the Federation of Alaska Natives; the Alaska Native Brotherhood; and the Alaska Native Sisterhood.

CHAIR LYNN talked about his experience as a non-Hispanic growing up in a predominately Hispanic community.

[8:35:48 AM](#)

REPRESENTATIVE KELLER emphasized that he believes everyone in Alaska is Alaskan, no matter his/her ethnicity, and he said he does not see that value of Alaskans being as one reflected in the second verse of the Alaska Flag song.

SENATOR KOOKESH said he likes the part of the second verse that states "**there be no bars among our cultures**", and he offered his understanding that that underlines Representative Keller's remarks.

REPRESENTATIVE KELLER said he agrees that there should be no bars, but opined that there should be no distinction in terms of "how we view each other."

SENATOR KOOKESH said he wishes that was true, but he has experienced a different reality as an Alaska Native.

[8:38:21 AM](#)

LORRAINE HAUSMAN stated that she opposes the addition of a second verse to the Alaska Flag song because "it's fine the way it is." She said her opinion has "nothing to do with anything other than I love the song and the intent of it."

[8:40:17 AM](#)

CONNIE DAVIS, testifying in support of SB 94, noted that her mother, Carol B. Davis, was a good friend of Marie Drake, who wrote the first verse of the Alaska Flag song, with school children in mind. She said the words of this verse describe the meaning of the flag, as described by Bennie Benson, the boy who designed the flag. The second verse, she said, continues the thoughts of unity and progress. She said many new Alaskans don't know the state song, and "the adoption of the second verse might be a starting point." She stated that all disciplines learn something from the past, and she said she thinks both verses are acceptable. Ms. Davis said she has observed about two-thirds of an Alaskan audience not know the words to the Alaska Flag song, and she surmised that adding the second verse may generate renewed interest in the state's song.

[8:42:58 AM](#)

PAMELA MARSCH, Staff, Senator Bettye Davis, Alaska State Legislature, on behalf of Senator Davis, sponsor of SB 94, read the sponsor statement:

Senate Bill 94 would add a second verse to The Alaska's Flag Song. The late Carol Beery Davis wrote a beautiful second verse, which gives recognition to Alaska Natives and to Benny Benson, who designed the Alaskan flag.

Similar bills have been introduced in the past. Last year The Alaska's Flag Song was performed with both verses as the Senate gaveled in on the first day of session. Also last year, the Senator from District G introduced SB 43. It passed the Senate, but stalled in the House.

This year is the year to join me in supporting a long overdue addition to the second verse to the Alaska Flag Song. By passing this bill you will be recognizing history, our progress as a state and our first people.

[8:44:22 AM](#)

CHAIR LYNN, after ascertaining that there was no one else who wished to testify, closed public testimony.

[8:44:37 AM](#)

REPRESENTATIVE GRUENBERG moved to report SB 94 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 94 was reported out of the House State Affairs Standing Committee.

[8:45:27 AM](#)

The committee took an at-ease from 8:45 a.m. to 8:49 a.m.

**HB 149-DRIVER'S LICENSING; MEDICAL CONDITIONS**

[8:49:40 AM](#)

CHAIR LYNN announced that the last order of business was HOUSE BILL NO. 149, "An Act relating to drivers' licenses and to

immunity for persons who report persons who have a medical or other condition that may impair the ability to operate a motor vehicle."

8:49:56 AM

REPRESENTATIVE ANNA FAIRCLOUGH, Alaska State Legislature, presented HB 149 as sponsor. She related that a couple years ago there was a vehicle collision, which left a boy named Connor in a coma for almost a month. She said this happened along a well-traveled corridor in Anchorage. She said she later learned that the boy was permanently injured, and that he is a friend of her son. Representative Fairclough said the boy's sister came to her and asked what could be done to make the roads safer for everyone. She told the committee of her connection with the family and said this is a personal issue. She said she considered naming the bill, "Conner's Law," but was told some people may not want to bring the legislation forward with a name on it.

8:54:06 AM

REPRESENTATIVE FAIRCLOUGH said she looked into current testing practices of the Division of Motor Vehicles (DMV) and was told by the director of the division that doctors will not report patients who should not be driving, because they can get sued. The proposed legislation would require a person applying for a driver's license to disclose if he/she has a condition that would impair his/her ability to drive. It could be a temporary condition, such as a person with seizures who needs to be seizure-free for six months before driving. One goal of the bill would be to have the DMV issue restricted driver's licenses to those people with impairments. The proposed legislation would provide immunity to physicians and other persons who, in good faith, report licensees diagnosed with a condition that may impair his/her ability to drive, and it would provide confidentiality for reporting and is "exempt from disclosure." Furthermore, physicians or persons who make a good faith report would not be liable for civil damages. The bill would not require reporting [by the physicians] but it would be in the best interest of public safety if they do report.

REPRESENTATIVE FAIRCLOUGH said the two main issues that need consideration by the committee are whether physicians should be allowed immunity and whether people need to be responsible to their fellow drivers by disclosing any impairment that would restrict their ability to drive. She spoke about the difficulty

of family members in working to have another family member's driver's license taken away and the advantage of having a physician determine if the family has a valid concern or not. She said the proposed legislation would include an appeals process.

[8:58:33 AM](#)

CHAIR LYNN ventured that the proposed legislation is an extension of the already existing requirement of those who need glasses to wear glasses while driving as a condition of their being issued a driver's license.

[8:58:50 AM](#)

REPRESENTATIVE PETERSEN observed that under HB 149, [Section 1, subsection (b)], the physician "may report". He asked for confirmation that the physician would have the option to disclose.

REPRESENTATIVE FAIRCLOUGH confirmed that is correct. She added that the physician would only be held accountable if he/she recklessly fails to make a disclosure. In response to a follow-up question, she said she contacted three medical groups in Alaska and has done outreach. She said there were concerns related to the Health Insurance Portability and Accountability Act (HIPAA) and whether doctors would be protected. She stated, "I believe I've accurately reflected any comments that we've received."

[9:00:52 AM](#)

REPRESENTATIVE SEATON asked if physicians were specifically asked about the possibility of a Class A misdemeanor.

REPRESENTATIVE FAIRCLOUGH answered that the physicians were given the bill, and she offered her understanding that there were no formal comments received from anyone.

[9:02:52 AM](#)

WHITNEY BREWSTER, Director, Division of Motor Vehicles (DMV), Department of Administration, in response to Representative Seaton, said the division is receiving an increasing number of requests from the public and law enforcement to reexamine a licensed driver. She said unfortunately the division receives few such requests from medical professionals, even though they

are often the first to know if there is a condition that would potentially make someone an unsafe driver. She said the division has heard that physicians are reluctant to issue such requests, because "there is no statute affording them immunity from civil or criminal action."

MS. BREWSTER said the division needs to know the following: if an individual has a condition that is uncontrollable, either through medication, therapy, surgery, or use of a particular driver device or technique; if the individual's condition is controllable, but he/she is refusing to follow the care [instructions] issued by the health care professionals; and if the extent of the impairment is unknown but potentially significant. She clarified that the division does not want to know everyone's condition, just the ones that have an uncontrollable condition or a controllable condition that is not being controlled.

MS. BREWSTER relayed that if the DMV receives notice from the medical community that a driver is not fit, it would cancel the individual's driver's license. That individual could contest that decision. She said the DMV mainly receives notices from law enforcement that the individual may be unfit to drive. In those cases, the DMV sends the individual notice that he/she must come in to the DMV for examination. The individual must come in within 30 days of that notification. If the individual does not comply, then the DMV would send a second notice that [that individual's license] will be cancelled within 15 days and that he/she has the option to request an administrative hearing to contest that decision.

[9:06:10 AM](#)

MS. BREWSTER said the number of cancellations done by the division per year, averaged over the last six years, is 211. She said the trend is going down, although there are a number of individuals are aging and/or medicated and should not be on the road. She said the division hopes that HB 149 will make the medical community feel more comfortable reporting, since currently only 10 percent of the recommendations received by the division are from the medical community. She pointed out that the notices from law enforcement are most likely to occur after an accident has occurred, and the division would like to prevent those accidents.

[9:07:37 AM](#)

MS. BREWSTER, in response to the chair, ventured that a patient would not hesitate seeing his/her doctor for fear of finding out he/she has a driving impairment, but she suggested that that question might better be directed to those in the medical community.

[9:08:32 AM](#)

REPRESENTATIVE FAIRCLOUGH said she thinks that is a valid question, but thinks that people will go to the doctor when in need. She talked about the dangers of putting a motor vehicle in the hands of someone who is in danger of becoming unconscious. She said the bill would create a mechanism for doctors to give important information to the DMV.

[9:10:56 AM](#)

REPRESENTATIVE SEATON said he supports the concept of the bill, but is looking for unintended consequences. He asked if the division has the same capabilities to respond to a report from a member of the public as it does to report from law enforcement.

[9:11:53 AM](#)

MS. BREWSTER confirmed that the DMV has the ability to take a report from the public. In that situation, she said, the DMV would let the customer know that he/she has been requested to come in for reexamination within the next 30 days. She reiterated the information regarding appeals. In response to the chair, she said the DMV does not take anonymous reporting; however, further research is done when reporting is received from the public than when it is received from law enforcement. Furthermore, during an administrative hearing, the person accused has the ability to cross examine the accuser.

[9:15:52 AM](#)

MS. BREWSTER, in response to questions from Representative Seaton, said when the DMV revokes a person's driver's license, the division asks that person to surrender the license; however, it is possible that a person could claim the license was lost and use it only for identification purposes, for example to board an airplane, although the DMV discourages people from doing that.

[9:20:04 AM](#)

REPRESENTATIVE FAIRCLOUGH asked Ms. Brewster to confirm whether the division would be able to issue state identification to all those whose driver's licenses are revoked.

MS. BREWSTER answered yes, but explained that under statute, the cost to each person would be \$15 for a state ID. She said statute would have to be changed in order to allow the DMV to waive that fee. She noted that individuals 60 years of age and over are eligible to receive a state ID card at no charge.

9:22:42 AM

REPRESENTATIVE GRUENBERG, regarding the medical community, said he sees in Title VIII at least 20 occupations that could come into play under HB 149, including pharmacists, physical therapists, and nurses. He recommended that the bill sponsor look at Title VIII. He suggested there may be issues regarding licensing and ethics. He said another issue is related to the language in Section 1, subsection (d), on page 2, lines 10-11, which read:

(d) Reports received under this section are confidential and exempt from disclosure under AS 40.25.

REPRESENTATIVE GRUENBERG said this only covers the reports, which could be construed by a court of law to mean that only the report itself is confidential, not the information therein; therefore, the person who made the report could be subpoenaed. Further, there may be question as to whether the testimony is admissible in court, even if the report is not. He mentioned evidentiary privilege. Representative Gruenberg expressed concern about making doctors and other [medical] professional subject to going to jail. He said a Class A Misdemeanor could mean up to year in prison for a doctor. He said he realizes that there is a standard of recklessness involved, but said this issue could cause concern and opposition. He remarked that most doctors run their own business and may have information as to what would be imputable.

9:26:57 AM

The committee took an at-ease from 9:27 a.m. to 9:29 a.m.

9:29:20 AM

ERLING JOHANSEN, Assistant Attorney General, Labor & State Affairs Section, Civil Division (Anchorage), Department of Law, regarding Representative Gruenberg's comment on Title VIII, cited language on page 1, lines 6-7, which read as follows:

(c) A licensee making a good faith report to the Department of Administration under AS 28.15.156 is not subject to discipline under this chapter for that report.

MR. JOHANSEN said the concept is there, but he does not know if it is as broad as the number of professions Representative Gruenberg referenced.

REPRESENTATIVE GRUENBERG, in response to a question from the sponsor, said the definition of "physicians" does not [cover numerous occupations]; it is specifically defined in AS 08.64.

REPRESENTATIVE FAIRCLOUGH clarified that the intent of this legislation is to have "a high bar" - to name physicians as the ones who decide whether or not a person could become unconscious while driving a vehicle.

CHAIR LYNN asked, "... If a physician determined a person might become unconscious because of their condition, and they don't report to DMV, ... do they have any liability?"

REPRESENTATIVE FAIRCLOUGH answered, "No, the physician may [emphasis on 'may'] report."

[9:32:33 AM](#)

REPRESENTATIVE GRUENBERG offered his understanding that the immunity seems to cover a person who reports; it does not say whether he/she may be liable for the failure to report. He said someone who has an epileptic seizure or has an attack related to hypoglycemia may cause an accident. Furthermore, a person who has to wear corrective lenses because he/she is legally blind could cause just as great an accident if he/she does not wear the lenses. He recommended that the sponsor consider hypothetical situations "where other people would similarly come into vital information in the (indisc. - coughing) of their profession." He said the issue is to get reporting. He offered an example where someone with a reportable condition has just moved to Alaska and has not yet seen a physician, but has been to a pharmacist. He opined that as first committee of referral, the committee members should be aware of ramifications.

[9:35:36 AM](#)

REPRESENTATIVE P. WILSON said she thinks the bill is good and needed, but needs further consideration. She related a personal story of her mother with glaucoma getting into an accident, and said she thinks her mother's eye doctor should have been required to report her to the DMV. Representative P. Wilson pointed out that she always drove when she visited her mother; therefore, she was unaware of how bad her mother's condition had become.

[9:38:52 AM](#)

REPRESENTATIVE KELLER thanked the sponsor for bringing the bill forward; however, he said the proposed legislation reminds him of 1984, by George Orwell. He mentioned HIPAA, said his concern is regarding patient/doctor privilege, and related that he wants to hear from the medical community. He said unless the DMV is given the discretion in each case to make decisions that are between the doctor and the patient, he finds the idea of reexaminations conducted by the DMV problematic.

[9:40:37 AM](#)

REPRESENTATIVE FAIRCLOUGH relayed that the American Medical Association (AMA) is moving in this direction as it reviews its ethics rules. She indicated that because there are people of all ages that put others in jeopardy while driving, it is necessary to have a medical professional involved. In response to Representative Keller, she said there are large volumes of books containing specific diagnoses that could be put into statute, but she does not believe that those diagnoses belong in statute. She acknowledged that it is difficult to talk about taking away anyone's ability to drive, and she said she understands that this bill could significantly alter people's lives. She said there needs to be a mechanism in place to protect the public.

REPRESENTATIVE KELLER said he can see the problem, but questions whether encouraging physician reporting is the best way to address it. He opined that there are many other options, and the best option may involve legislation. He said there is a penalty for driving recklessly. He reiterated his concern about the patient/doctor privilege and making the DMV the entity to make the final determination.

9:45:55 AM

REPRESENTATIVE GRUENBERG said it seems that the responsibility should lie with the driver.

REPRESENTATIVE FAIRCLOUGH responded that that specification has been made on page 1, [lines 11-14, which read as follows]:

(a) A person licensed or applying for a license under this chapter shall disclose if the person has been diagnosed as having a disorder characterized by lapses of consciousness or any other condition that may impair a person's ability to operate a motor vehicle.

REPRESENTATIVE GRUENBERG said he thinks that is a good idea, but said he does not want to criminalize the whole state; therefore, he recommended public outreach and education. He questioned whether someone who drives with a condition, "without this appropriate safeguard," would be violating the law.

REPRESENTATIVE P. WILSON indicated that creating law to address this issue needs to be done with great care. She noted that Pennsylvania and Oregon have laws in place related to disclosures to the DMV.

9:48:57 AM

CHAIR LYNN told the bill sponsor that he would try to hear HB 149 again at the beginning of next session in January, 2012.

[HB 149 was held over.]

9:49:30 AM

#### **ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 9:49 a.m.