

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 9, 2012

1:33 p.m.

MEMBERS PRESENT

Senator Hollis French, Chair
Senator Bill Wielechowski, Vice Chair
Senator Joe Paskvan
Senator John Coghill

MEMBERS ABSENT

Senator Lesil McGuire

COMMITTEE CALENDAR

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 229(JUD)

"An Act relating to the duties of the Big Game Commercial Services Board; relating to activities, including violations and penalties, under the supervision of the Big Game Commercial Services Board; creating a retired status license for certain retired guides and outfitters; and providing for an effective date."

- MOVED CSHB 229(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 274

"An Act relating to the exemption of certain acts and transactions from the provisions dealing with unfair methods of competition and unfair or deceptive acts or practices."

- MOVED HB 274 OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 224(FIN) AM

"An Act prohibiting the sale or gift of a product containing nicotine to a minor under certain conditions."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 55(JUD)

"An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law; and relating to reserving the authority to regulate knives to the state with limited exceptions for municipalities to regulate knives."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 229

SHORT TITLE: BIG GAME COMMERCIAL SERVICES BOARD

SPONSOR(S): REPRESENTATIVE(S) FEIGE

04/06/11 (H) READ THE FIRST TIME - REFERRALS
04/06/11 (H) RES, JUD
04/08/11 (H) RES AT 1:00 PM BARNES 124
04/08/11 (H) Heard & Held
04/08/11 (H) MINUTE(RES)
02/15/12 (H) RES AT 1:00 PM BARNES 124
02/15/12 (H) Heard & Held
02/15/12 (H) MINUTE(RES)
02/17/12 (H) RES AT 1:00 PM BARNES 124
02/17/12 (H) Moved CSHB 229(RES) Out of Committee
02/17/12 (H) MINUTE(RES)
02/20/12 (H) RES RPT CS(RES) NT 6DP 2NR 1AM
02/20/12 (H) DP: MUNOZ, FOSTER, DICK, P.WILSON,
SEATON, FEIGE
02/20/12 (H) NR: GARDNER, HERRON
02/20/12 (H) AM: KAWASAKI
03/02/12 (H) JUD AT 1:00 PM CAPITOL 120
03/02/12 (H) Moved CSHB 229(JUD) Out of Committee
03/02/12 (H) MINUTE(JUD)
03/05/12 (H) JUD RPT CS(JUD) NT 7DP
03/05/12 (H) DP: LYNN, GRUENBERG, KELLER, HAWKER,
HOLMES, PRUITT, THOMPSON
03/12/12 (H) TRANSMITTED TO (S)
03/12/12 (H) VERSION: CSHB 229(JUD)
03/14/12 (S) READ THE FIRST TIME - REFERRALS
03/14/12 (S) JUD
04/06/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/06/12 (S) Heard & Held
04/06/12 (S) MINUTE(JUD)
04/09/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 274

SHORT TITLE: UNFAIR TRADE PRACTICES

SPONSOR(S): REPRESENTATIVE(S) HOLMES, OLSON

01/17/12 (H) PREFILE RELEASED 1/13/12
01/17/12 (H) READ THE FIRST TIME - REFERRALS
01/17/12 (H) L&C
02/13/12 (H) L&C AT 3:15 PM CAPITOL 106

02/13/12 (H) Moved Out of Committee
02/13/12 (H) MINUTE(L&C)
02/15/12 (H) L&C RPT 4DP 1NR
02/15/12 (H) DP: MILLER, HOLMES, THOMPSON, OLSON
02/15/12 (H) NR: JOHNSON
02/17/12 (H) TRANSMITTED TO (S)
02/17/12 (H) VERSION: HB 274
02/21/12 (S) READ THE FIRST TIME - REFERRALS
02/21/12 (S) JUD
04/06/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/06/12 (S) Heard & Held
04/06/12 (S) MINUTE(JUD)
04/09/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 224

SHORT TITLE: SALES OF NICOTINE PRODUCTS TO MINOR
SPONSOR(s): REPRESENTATIVE(s) SEATON

04/04/11 (H) READ THE FIRST TIME - REFERRALS
04/04/11 (H) JUD, FIN
04/11/11 (H) JUD AT 1:00 PM CAPITOL 120
04/11/11 (H) Scheduled But Not Heard
04/13/11 (H) JUD AT 1:00 PM CAPITOL 120
04/13/11 (H) Moved CSHB 224(JUD) Out of Committee
04/13/11 (H) MINUTE(JUD)
04/14/11 (H) JUD RPT CS(JUD) NT 4DP 3NR
04/14/11 (H) DP: HOLMES, THOMPSON, LYNN, GATTO
04/14/11 (H) NR: PRUITT, KELLER, GRUENBERG
02/23/12 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/23/12 (H) Scheduled But Not Heard
02/27/12 (H) FIN AT 1:30 PM HOUSE FINANCE 519
02/27/12 (H) Moved CSHB 224(FIN) Out of Committee
02/27/12 (H) MINUTE(FIN)
02/29/12 (H) FIN RPT CS(FIN) NT 9DP 1AM
02/29/12 (H) DP: FAIRCLOUGH, T.WILSON, GUTTENBERG,
COSTELLO, EDGMON, DOOGAN, JOULE,
STOLTZE,
02/29/12 (H) THOMAS
02/29/12 (H) AM: GARA
03/12/12 (H) TRANSMITTED TO (S)
03/12/12 (H) VERSION: CSHB 224(FIN) AM
03/14/12 (S) READ THE FIRST TIME - REFERRALS
03/14/12 (S) HSS, JUD
03/28/12 (S) HSS AT 1:30 PM BUTROVICH 205
03/28/12 (S) Moved CSHB 224(FIN) am Out of Committee
03/28/12 (S) MINUTE(HSS)
03/30/12 (S) HSS RPT 4DP

03/30/12 (S) DP: DAVIS, MEYER, EGAN, DYSON
04/09/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 55

SHORT TITLE: KNIVES, GRAVITY KNIFE & SWITCHBLADE

SPONSOR(s): REPRESENTATIVE(s) NEUMAN, LYNN

01/18/11 (H) PREFILE RELEASED 1/7/11
01/18/11 (H) READ THE FIRST TIME - REFERRALS
01/18/11 (H) JUD
02/15/12 (H) JUD AT 1:00 PM CAPITOL 120
02/15/12 (H) Moved CSHB 55(JUD) Out of Committee
02/15/12 (H) MINUTE(JUD)
02/17/12 (H) JUD RPT CS(JUD) NT 6DP
02/17/12 (H) DP: LYNN, GRUENBERG, KELLER, THOMPSON,
HOLMES, GATTO
03/05/12 (H) TRANSMITTED TO (S)
03/05/12 (H) VERSION: CSHB 55(JUD)
03/06/12 (S) READ THE FIRST TIME - REFERRALS
03/06/12 (S) JUD
04/09/12 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

DIANE CASTO, Prevention Manager
Division of Behavioral Health
Department of Health and Social Services (DHSS)
Juneau, AK

POSITION STATEMENT: Provided information related to HB 224.

EMILY NENON, Alaska Government Relations Director
American Cancer Society (ACS), Cancer Action Network (CAN)
Anchorage, AK

POSITION STATEMENT: Testified in support of HB 224.

REPRESENTATIVE MARK NEUMAN
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of HB 55.

REX SHATTUCK, staff
Representative Mark Neuman
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Provided information on HB 55 on behalf of the sponsor.

C.J. BUCK
Buck Knives and
Legislative Chair
American Knife and Tool Institute
Post Falls, ID

POSITION STATEMENT: Testified in support of HB 55.

RAY THIBAUT, Northern Knives
Anchorage, AK

POSITION STATEMENT: Testified in support of HB 55.

ACTION NARRATIVE

[1:33:02 PM](#)

CHAIR HOLLIS FRENCH called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Paskvan, Coghill, Wielechowski, and Chair French.

HB 229-BIG GAME COMMERCIAL SERVICES BOARD

[1:33:31 PM](#)

CHAIR FRENCH announced the consideration of HB 229, "An Act relating to activities, including violations and penalties, under the supervision of the Big Game Commercial Services Board." The bill was heard previously and public testimony was taken. Finding no further questions or comments, he asked for a motion.

[1:33:58 PM](#)

SENATOR WIELECHOWSKI moved to report CS for HB 229, version E, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that without objection CSHB 229(JUD) moved from the Senate Judiciary Standing Committee.

HB 274-UNFAIR TRADE PRACTICES

[1:34:20 PM](#)

CHAIR FRENCH announced the consideration of HB 274, "An Act relating to the exemption of certain acts and transactions from the provisions dealing with unfair methods of competition and unfair or deceptive acts or practices." The bill was heard previously and public testimony was taken. Finding no further questions or comments, he asked for a motion.

[1:34:39 PM](#)

SENATOR WIELECHOWSKI moved to report HB 274, version B, from committee with individual recommendations and attached fiscal note(s).

CHAIR FRENCH announced that HB 274 moved from the Senate Judiciary Standing Committee.

[1:34:50 PM](#)

At ease.

HB 224-SALES OF NICOTINE PRODUCTS TO MINOR

[1:36:15 PM](#)

CHAIR FRENCH announced the consideration of HB 224, "An Act prohibiting the sale or gift of a product containing nicotine to a minor under certain conditions."

[1:36:29 PM](#)

REPRESENTATIVE PAUL SEATON, sponsor of HB 224, stated that this legislation addresses the issue that state law does not prevent companies from selling or giving products that contain nicotine to minors. He reported that tobacco companies are test marketing nicotine-laced products like water, candy lozenges, toothpicks, and hand wipes in four states. The bill is an effort to keep these products from appearing on retail shelves across Alaska, because they are designed to get kids addicted to nicotine so they will switch to tobacco products. The bill does not preclude a medical professional from prescribing nicotine, and it does not prevent a parent or guardian from providing nicotine to their children. He concluded that these products should not be allowed to circulate in Alaskan communities.

He said most vendors can verify age by scanning IDs and DHSS has indicated it should not be a problem to incorporate this into their current education program. In addition, it is a complaint-driven process so the penalty for an infraction would be much like a speeding ticket.

[1:39:53 PM](#)

CHAIR FRENCH asked him to confirm that the products he showed the committee are not currently sold in Alaska.

REPRESENTATIVE SEATON said that is correct; the samples came from Oregon, one of the test market states, but nothing prevents their sale in Alaska. Responding to further questions, he explained that both synthetic and tobacco-derived nicotine are

addictive, but the U.S. Food and Drug Administration (USFDA) can only regulate use in tobacco products.

1:41:28 PM

CHAIR FRENCH asked for an explanation of Sec. 11.76.109(a)(2) on page 1, lines 10-11.

REPRESENTATIVE SEATON explained that subsection (a) prohibits the sale or gift of a product containing nicotine to a minor. Paragraph (1) specifically addresses the sale of a product containing nicotine to a person under age 19, and paragraph (2) specifically addresses gifting a product containing nicotine to a person under age 19.

CHAIR FRENCH reviewed the exceptions in subsection (b) and questioned linking paragraphs (1), (2), and (3) with "and." Doing so would keep a parent from giving a nicotine-containing product to their child unless it was USFDA approved for tobacco cessation.

REPRESENTATIVE SEATON responded that the intent is that a parent can give their child a tobacco cessation device, or a pharmacist can prescribe and delivered it.

CHAIR FRENCH asked if he was trying to outlaw a parent giving their child the nicotine-laced water but allow giving Nicorette gum.

REPRESENTATIVE SEATON reiterated the intent.

CHAIR FRENCH said he was trying to make sure that everyone was reading the bill the way he was reading it. He reviewed subsections (c), (d), and (e) and had no further questions.

1:45:19 PM

SENATOR COGHILL asked if there is a safe level of nicotine.

REPRESENTATIVE SEATON replied all of the medical professionals consulted indicated there is no constructive use for nicotine. He noted that the Department of Health and Social Services (DHSS) may have something to add.

SENATOR COGHILL wondered if an energy drink might contain a safe level of nicotine.

1:46:32 PM

MARY JANE SHOWS, staff to Representative Paul Seaton, said her research indicated that the only products that have nicotine added are the ones the sponsor mentioned.

SENATOR COGHILL asked how a hand wipe might cause a nicotine addiction.

REPRESENTATIVE SEATON explained that nicotine enters the bloodstream through the pores of the skin.

[1:47:46 PM](#)

SENATOR WIELECHOWSKI offered the committee information about nicotine that he gleaned from Wikipedia.

SENATOR PASKVAN asked if tobacco company subsidiaries manufacture these products.

REPRESENTATIVE SEATON said that was his understanding.

CHAIR FRENCH asked Ms. Casto when she first became aware of these nicotine-laced products.

DIANE CASTO, Prevention Manager, Division of Behavioral Health, Department of Health and Social Services (DHSS), said information about recreational nicotine products has cropped up in the course of her job for the last several years. She offered her personal opinion that tobacco companies are looking for additional ways to market their product as cigarette usage drops.

CHAIR FRENCH asked where nicotine gum falls in the spectrum.

MS. CASTO explained that gum and nicotine patches are primarily used as tobacco cessation products.

CHAIR FRENCH reviewed the exception in paragraph (1) and observed that the gum has been approved by the USFDA. He reviewed the exception in paragraph (2) and asked if "approved purposes" means tobacco cessation.

MS. CASTO said yes. She relayed that the USFDA recognizes the potentially large market for these new recreational nicotine products, and is committed to finding a way to appropriately monitor and regulate the usage.

CHAIR FRENCH asked if she was aware of trace amounts of nicotine in the marketplace.

MS. CASTO replied she couldn't say with certainty but, in general, nicotine is not being put into products right now.

[1:53:16 PM](#)

EMILY NENON, Alaska Government Relations Director, American Cancer Society (ACS), Cancer Action Network (CAN), stated support of HB 224. It will close a loophole in the statutes and will help protect kids from some of the new and dangerous products coming on the market. Every month she hears about new and creative ways the tobacco industry has developed to deliver nicotine. She warned the committee to remain vigilant against predatory products and practices that entice kids into deadly addictions.

[1:54:39 PM](#)

CHAIR FRENCH asked if the \$300 fine provided in the bill was the same as the fine for selling cigarettes to a minor.

MS. NENON deferred the question to Ms. Casto.

MS. CASTO explained that a certification is required in order to sell tobacco and when there is a violation of selling to an underage person there are two potential actions. One is to fine the clerk that sold the tobacco \$300 on a first offense, and incrementally higher on subsequent offenses. The second option is to penalize the owner of the establishment by suspending tobacco sales for up to 20 days on a first offense, although it can be mitigated down to a minimum of 10 days. Again, the number of days that tobaccos sales are suspended increases with each subsequent offense.

CHAIR FRENCH observed that the bill takes a different scheme since there is no license to suspend; it will essentially be a fine against the vender.

MS. CASTO said that was her understanding. She added that part of the DHSS tobacco enforcement program is to train and educate sellers of tobacco products about new and changing laws. If these new products enter Alaska, it would not be difficult to incorporate them into the program.

CHAIR FRENCH asked if this bill might prevent those products from entering the Alaska market entirely.

MS. CASTO replied that was her hope. She opined that limiting the ability to sell the products to minors would certainly reduce the draw.

CHAIR FRENCH commented that it's a good reminder that the products could still be sold to adults.

SENATOR PASKVAN asked if nicotine-laced water is flavored.

MS. CASTO surmised that would be the case.

[2:00:45 PM](#)

CHAIR FRENCH noted the press relief from the Harvard School of Public Health that talked about dissolvable nicotine that can lead to accidental poisoning in infants and youths. He asked if she had reviewed any of that material.

MS. CASTO said she had not done any in-depth research but it is an addictive substance and little bodies would be particularly vulnerable.

[2:01:39 PM](#)

CHAIR FRENCH closed public testimony and held HB 224 in committee.

REPRESENTATIVE SEATON noted the added provision that subjects an employer to a \$300 fine for failure to advise their employees of this prohibition.

HB 55-KNIVES, GRAVITY KNIFE & SWITCHBLADE

[2:03:01 PM](#)

CHAIR FRENCH announced the consideration of HB 55. "An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law; and relating to reserving the authority to regulate knives to the state with limited exceptions for municipalities to regulate knives."

[2:03:26 PM](#)

REPRESENTATIVE MARK NEUMAN, sponsor of HB 55, said the bill clarifies that hunting, fishing, and utility knives that are easy-open or one-hand-opening do not qualify as a switchblade, and are legal to own. He reported that 80 percent of knives sold today have a one-hand-opening option, generally a small button on the side. Other knives have a spring-loaded assist on the blade. He distributed samples to the committee and explained that 82 percent of knives sold have a biased-close mechanism.

CHAIR FRENCH directed attention to page 1, line 8, and asked if a "detent" helps keep a knife closed.

[2:05:33 PM](#)

REX SHATTUCK, staff to Representative Mark Neuman, demonstrated the features on several commonly used knives including the knife that has raised concerns in many jurisdictions. He showed the peg on the side of the blade or an additional detent on the back that helps in opening, what the knife looks like in the prone position, and how to overcome the bias closure so the blade can open fully. Responding to a question from the Chair, he confirmed that the bill differentiates between this type of knife and a switchblade. He mentioned the names of recognized manufacturers.

MR. SHATTUCK displayed a switchblade and demonstrated its operation.

[2:07:46 PM](#)

CHAIR FRENCH asked how the bill treats that knife.

MR. SHATTUCK discussed the definition of "switchblade" under the Switchblade Knife Act of 1958 and the Alaska court cases State v. Strange and State v. Weaver that struggled with the definitions. The problem is that many of the knives commonly used for fishing, hunting, and utility purposes arguably fall under the definition of "gravity knife" or "switchblade."

He explained that HB 55 will clarify in statute that the definitions of "gravity knife" and "switchblade" do not include ["a knife that has a spring, detent, or other mechanism designed to create a bias toward closure that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the blade."]

REPRESENTATIVE NEUMAN said he did not want Alaskan sportsmen to run afoul of the law by carrying what is a common hunting, fishing, or utility knife.

MR. SHATTUCK added that the concerns the courts have had relate to the ability to conceal the blade and the ability to deliver the blade quickly. He surmised that the gravity knife caused concern because of quick delivery.

REPRESENTATIVE NEUMAN reiterated his intention to protect sportsmen and people that carry a utility or pocketknife.

[2:11:57 PM](#)

SENATOR PASKVAN asked if people had been accused of carrying either a gravity knife or switchblade when they were carrying a Kershaw, for example.

MR. SHATTUCK said the two Alaska court cases that struggled with the definitions for switchblade and gravity knife relied heavily on a dictionary. Part of the struggle was whether fast opening makes the knife a switchblade. The difference is that a switchblade is quick to both deploy and retract for easy concealment.

SENATOR PASKVAN asked if knives have features or operations that did not previously exist.

MR. SHATTUCK confirmed that the market has responded to different demands and uses and the definitions have not kept up.

REPRESENTATIVE NEUMAN added that the industry has concerns about the ability to market knives and not be confused with a switchblade.

[2:15:12 PM](#)

C.J. BUCK, Buck Knives, and Legislative Chair, American Knife and Tool Institute, Post Falls, ID, testified in support of HB 55. He said an element of one-handed knives is the utility it provides to the user. However, if enough centrifugal force is applied just about any knife on the market can flick open by a general definition of gravity. This language in the bill provides a more objective definition of the mechanical elements that is less open to subjective interpretation.

Referring to an earlier question, he explained that a detent is like a knob that fits into a depression in the blade. As the knife closes, that knob fits into the hole and pulls the blade closed completely. It serves two purposes; the knife has to be actively opened, and it is a safety feature.

[2:18:20 PM](#)

RAY THIBAULT, Northern Knives, Anchorage, AK, testified in support of HB 55. He stated agreement with Mr. Buck's testimony and the language in the bill.

CHAIR FRENCH asked if he sells knives for a living.

MR. THIBAULT said yes.

CHAIR FRENCH asked if the bill would interfere with his business.

MR. THIBAUT said no; it would be helpful.

SENATOR PASKVAN asked if a license or permit is required to carry a switchblade.

MR. THIBAUT said only law enforcement and active duty military can carry switchblades.

SENATOR PASKVAN asked if active duty military can carry a switchblade when they are not on duty.

MR. THIBAUT said his understanding is that it is under the aegis of the base commander.

REPRESENTATIVE NEUMAN reiterated that the bill clarifies language and will help sportsmen.

[2:21:50 PM](#)

CHAIR FRENCH announced he would hold HB 55 in committee.

[2:21:53 PM](#)

There being no further business to come before the committee, CHAIR FRENCH adjourned the meeting at 2:21 p.m.