

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

March 13, 2012

1:34 p.m.

**MEMBERS PRESENT**

Senator Dennis Egan, Chair  
Senator Linda Menard  
Senator Bettye Davis  
Senator Cathy Giessel

**MEMBERS ABSENT**

Senator Joe Paskvan, Vice Chair

**COMMITTEE CALENDAR**

SENATE BILL NO. 217

"An Act establishing procedures and guidelines for auditing pharmacy records; and providing for an effective date."

- MOVED CSSB 217(L&C) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 168(JUD)

"An Act requiring the amount of the security given by a party seeking an injunction or order vacating or staying the operation of a permit affecting an industrial operation to include an amount for the payment of wages and benefits for employees and payments to contractors and subcontractors that may be lost if the industrial operation is wrongfully enjoined."

- HEARD & HELD

SENATE BILL NO. 28

"An Act making sales of and offers to sell certain energy resources at prices that are unconscionable an unlawful act or practice under the Alaska Unfair Trade Practices and Consumer Protection Act."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 217

SHORT TITLE: PHARMACY AUDITS

SPONSOR(s): LABOR & COMMERCE

02/22/12 (S) READ THE FIRST TIME - REFERRALS  
02/22/12 (S) L&C, FIN  
03/01/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/01/12 (S) Heard & Held  
03/01/12 (S) MINUTE(L&C)  
03/06/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/06/12 (S) Heard & Held  
03/06/12 (S) MINUTE(L&C)  
03/13/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 168

SHORT TITLE: INJUNCTION SECURITY: INDUSTRIAL OPERATION

SPONSOR(s): FEIGE

02/23/11 (H) READ THE FIRST TIME - REFERRALS  
02/23/11 (H) JUD  
02/25/11 (H) BILL REPRINTED 2/24/11  
03/21/11 (H) JUD AT 1:00 PM CAPITOL 120  
03/21/11 (H) Heard & Held  
03/21/11 (H) MINUTE(JUD)  
03/23/11 (H) JUD AT 1:00 PM CAPITOL 120  
03/23/11 (H) <Bill Hearing Canceled>  
03/30/11 (H) JUD AT 1:00 PM CAPITOL 120  
03/30/11 (H) Scheduled But Not Heard  
04/04/11 (H) JUD AT 1:00 PM CAPITOL 120  
04/04/11 (H) Moved CSHB 168(JUD) Out of Committee  
04/04/11 (H) MINUTE(JUD)  
04/05/11 (H) JUD RPT CS(JUD) 3DP 2NR  
04/05/11 (H) DP: KELLER, PRUITT, THOMPSON  
04/05/11 (H) NR: GRUENBERG, HOLMES  
04/07/11 (H) TRANSMITTED TO (S)  
04/07/11 (H) VERSION: CSHB 168(JUD)  
04/08/11 (S) READ THE FIRST TIME - REFERRALS  
04/08/11 (S) L&C, JUD  
02/23/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/23/12 (S) <Bill Hearing Postponed>  
03/01/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/01/12 (S) Heard & Held  
03/01/12 (S) MINUTE(L&C)  
03/13/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 28

SHORT TITLE: PRICE GOUGING INVOLVING ENERGY RESOURCES

SPONSOR(s): WIELECHOWSKI, ELLIS, FRENCH

01/19/11 (S) PREFILE RELEASED 1/7/11

01/19/11 (S) READ THE FIRST TIME - REFERRALS  
01/19/11 (S) L&C, FIN  
03/13/12 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

DANA OWEN, Staff  
Senate Labor and Commerce Committee  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Explained CSSB 217(L&C), labeled 27-LS1411\B.

REPRESENTATIVE ERIC FEIGE  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of HB 168.

LINDA HAY, Staff  
Representative Eric Feige  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Indicated she did not want to testify on HB 168.

MIKE SATRIE, Executive Director  
Council of Alaska Producers  
Juneau, AK

**POSITION STATEMENT:** Supported HB 168.

BARBARA HUFF-TUCKNESS, Director  
Legislative and Governmental Affairs  
Teamsters Local 959  
Juneau, AK

**POSITION STATEMENT:** Supported HB 168.

CARL PORTMAN, Deputy Director  
Resource Development Council (RDC)  
Anchorage, AK

**POSITION STATEMENT:** Supported HB 168.

SENATOR BILL WIELECHOWSKI  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Sponsor of SB 28.

THOMAS PRESLEY, Staff

Senator Bill Wielechowski  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Commented on SB 28 on behalf of the sponsor.

JAVEN OSE, Citizen  
Representing 650,000 Alaskans  
Alaska

**POSITION STATEMENT:** Commented on SB 28.

ED SNIFFEN, Assistant Attorney General  
Civil Division  
Commercial and Fair Business Section  
Alaska Department of Law (DOL)  
Anchorage, AK

**POSITION STATEMENT:** Was available for questions on SB 28.

MATT WALLACE, Executive Director  
Alaska Public Interest Research Group (AKPIRG)  
Anchorage, AK

**POSITION STATEMENT:** Supported SB 28.

#### **ACTION NARRATIVE**

[1:34:46 PM](#)

**CHAIR DENNIS EGAN** called the Senate Labor and Commerce Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Giessel, Davis, and Chair Egan.

#### **SB 217-PHARMACY AUDITS**

[1:36:22 PM](#)

**CHAIR EGAN** announced consideration of SB 217. He invited his staff to explain the proposed committee substitute (CS).

[1:37:21 PM](#)

**SENATOR MENARD** joined the committee.

**DANA OWEN**, staff to Senator Egan and the Senate Labor and Commerce Committee, explained the CS to SB 217(L&C), labeled 27-LS1411\B. A number of grammatical changes were made along with a number of additions. On page 1, line 8, in section 1 "such" was replaced by "those" for clarification. In section 2 on page 2, line 7, new paragraph (3) was added that limits the number of prescriptions an auditor may audit to 75. They have been informed that standard audits run somewhere between 25 and 125 prescriptions and can run many more than that.

On page 2, line 18, the phrase "may not be the basis for finding fraud;" replaces "may not constitute fraud;" for grammatical clarity.

On page 2, line 21, "only provide information" was replaced with "provide information only" to clarify the intent.

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On page 2, line 13, a new paragraph (13) was added to ensure that a prescription mailed or delivered at the request of a patient may not be the basis for a charge back recoupment or penalty. He said that Southeast Alaska has actually had some experience with this; most of the current contracts call for the auditors to be able to hold back the entire amount of a prescription if it has been mail ordered and they have a branch of their business.

On page 3, line 7, "documented telephone calls from a prescriber or prescriber's agent" was added to be able to validate a pharmacy record.

On page 3, lines 25-27, subsection (b) was rewritten to clarify that this bill does not apply to Medicaid audits. With that, Mr. Owen offered to answer questions.

1:40:40 PM

SENATOR MENARD asked him to sum up the two letters of objection in their packet.

MR. OWEN responded that previous testimony had indicated that audits are an effective way to make sure fraud and mistakes are not made in the business practices of dispensing drugs, and that they are useful for holding down costs. Some people have argued that the bill is unnecessary and the audits are working well the way they are, but the committee has also heard testimony otherwise.

SENATOR MENARD said she had heard that overall one of the objections is that pharmacies don't get ample notice, that it goes from one day to the next and then they want an intensive audit to happen.

SENATOR GIESSEL moved to adopt CSSB 217( ), version B, for discussion purposes.

CHAIR EGAN objected for further discussion. He found no further comments.

SENATOR DAVIS moved to report CSSB 217 (L&C), version 27-LS1411\B, from committee with individual recommendations and attached fiscal note(s). There were no objections and it was so ordered.

[1:43:48 PM](#)

At ease from 1:43 to 1:44 p.m.

**HB 168-INJUNCTION SECURITY: INDUSTRIAL OPERATION**

[1:44:52 PM](#)

CHAIR EGAN announced consideration of HB 168 [CSHB 168(JUD), labeled 27-LS0395\D, was before the committee]. He said that Representative Feige did an initial presentation on the bill last week. Before accepting public testimony, Chair Egan asked if he had any further comments.

REPRESENTATIVE ERIC FEIGE, sponsor of HB 168, said he wanted to respond to some of the issues raised in a letter from the Alaska Conservation Alliance. It says this legislation is not aimed at frivolous lawsuits, and whether a lawsuit is frivolous or has merit is really a matter of opinion. The bond amounts are not determined by legislation but by the judge. Nothing in HB 168 specifies an amount. This bill in no way prevents Alaskans from challenging government issued permits. The state permit process allows for plenty of public input prior to granting permits with plenty of opportunities to appeal them along the way. He reaffirmed for the committee that Alaska has one of the most comprehensive permitting process of any of the 50 states.

He directed attention to the legal memo prepared for Senator Egan, dated February 29, 2012, that mirrors one that was requested by Representative Gruenberg, dated March 21, 2011 (part of the original bill packet). It says that HB 168 parallels the requirements of Alaska Civil Rule 65(c) that states:

No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant in such sum as the court deems proper. The payment of such costs and damages as maybe occurred or suffered by any party who is found to have been wrongfully enjoined or restrained.

No such security shall be required of the state or a municipality or of an officer or an agency thereof.

REPRESENTATIVE FEIGE said the end of the letter said this legislation is so broad that it may even prevent the state from enforcing violations of law, but that is not true. A state agency always has the option to simply withdraw the permit, especially if the company or an operator is found to be in violation of the terms of its permit.

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He said that HB 168 was amended in House Judiciary, consulting with the Department of Law, to more closely mirror the language of the court rule. The CS would clarify that the proposed statute would not change it, and the discretion would be left entirely to the court. He said they were very conscious of not trying to change the court rule.

REPRESENTATIVE FEIGE said when legally permitted projects are shut down it is not only the project sponsor who is affected but the project's workers who get laid off (both union and non-union) and their families. He saw HB 168 as a jobs bill and with the Labor and Commerce Committee referral he thought the Senate agreed.

CHAIR EGAN asked the sponsor's staff, Ms. Hay, if she wanted to testify.

LINDA HAY, staff to Representative Feige, indicated she did not want to testify on HB 168.

MIKE SATRIE, Executive Director, Council of Alaska Producers, Juneau, AK, said the council supported HB 168. The council is a non-profit trade association representing the producing large metal mines and development projects in the State of Alaska; it supports a rigorous science-based permitting system that allows efficient and responsible development of Alaska's resources. They encourage and respect the public process used to manage these resources. Unfortunately, and too often, once the process has been completed and permits have been issued, opponents of a project file litigation to force the injunction or stay of these permits, which delays and potentially stops the permitted development. If this litigation is ultimately found to have no merit, it is Alaskan workers and their families who suffer the most due to lost wages and opportunity. To rectify this problem, HB 168 requires a party seeking a restraining order, preliminary injunction, a stay or a vacation of a permit to post a bond that

would cover, amongst other things, lost wages and benefits if it is found the suit has been wrongfully enjoined. The courts have broad leeway in fixing the amount of this bond, which allows them to also protect the rights of the individual filing these suits.

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MR. SATRIE said it's important to consider what HB 168 does and does not do. It does not affect federal permits, appeals or litigation. It does not in any way prevent appeals or litigation of state permits, and it does not restrict the rights of public interest litigants. But it does encourage engagement in the early stages of public participation in the permitting process. He said they want people to come to the table and find ways to make projects better and not rely on litigation to solve their differences.

He said this measure also requires public interest litigants of state permits to recognize the financial risk of their actions and ultimately may provide security for Alaskan workers and their families.

MR. SATRIE thanked the committee very much for taking the time to hear this bill that passed the other body with broad bipartisan support.

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BARBARA HUFF-TUCKNESS, Director, Legislative and Governmental Affairs, Teamsters Local 959, Juneau, AK, supported HB 168. The important issue before this committee is the impact on Alaskan workers, she said. Several years ago it was the issue for the Pogo mine when 45 members were taken off the job because of some last minute litigation. They lost two weeks of work, and of course there was no recourse for them. The suit was not against the employer in this instance, and it was not successful. She said the workers ultimately returned to work and completed the project.

CARL PORTMAN, Deputy Director, Resource Development Council (RDC), Anchorage, AK, supported HB 168. He said they supported efforts to bring more accountability to the appeals and litigation process for community and resource development projects. HB 168 makes progress in this regard by ensuring that opponents of projects have some skin in the game. Under current law, plaintiffs have little incentive not to file lawsuits and appeals and seek injunctions to stop development projects. Seeking injunctions cost plaintiffs very little, while the

project sponsors endure the high cost of uncertainty and delay. The discovery phase in these types of cases can cost hundreds of thousands of dollars to the state and project proponents. Even when projects are not enjoined, the uncertainty of litigation can effectively stop progress.

It is not just the project sponsor who is adversely affected by these injunctions, Mr. Portman said. The employees of the project sponsors' contractors are often burdened with the direct and immediate impacts of a stay on a permit, which causes construction and development to shut down. Under existing law, judges have not required opponents of developing Alaska's resources to post bonds or other security to cover the economic harm to projects and to the workforce caused by the parties seeking injunctions.

HB 168 does not limit the ability of citizens to sue, but it requires a bond in those cases where an injunction is requested before the case is adjudicated. HB 168 strikes an appropriate balance by removing incentives for filing ideologically based challenges designed to delay projects while still preserving the right to bring meritorious challenges.

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MR. PORTMAN said the timber industry in Southeast Alaska would be in better shape today if a bond was required before timber sales are adjudicated. This industry has been decimated by endless appeals and litigation over federal timber sales. Recent headlines include yet more legal challenges that may further delay exploratory drilling in the Alaska OCS (outer continental shelf), drilling that is yet to occur on leases sold in 2008. Litigation in the Arctic OCS is delaying the state's goal to increase throughput in TAPS through new OCS development. While these cases are in federal jurisdiction, litigation in state court is likely to increase with the primacy assumed over the water programs.

MR. PORTMAN said the ability of project proponents to weather the storm of an unfounded stay of activities varies based on a project's economics and the strength of the balance sheets of those developing it. A worker who loses employment because of a court-ordered stay might not have that lasting power to wait out what is often a lengthy legal proceeding. It is fitting that this bill was referred to this committee, as both labor and commerce are directly impacted, he said. It can provide some accountability to mitigate disruption of commerce while protecting the interests of Alaskans engaged in projects that

may be subject to challenge. He thanked them again for hearing this bill and urged its passage.

CHAIR EGAN found no question and said he would hold HB 168 and take it up again soon.

**SB 28-PRICE GOUGING INVOLVING ENERGY RESOURCES**

[1:59:16 PM](#)

CHAIR EGAN announced consideration of SB 28 saying the committee would take public testimony.

SENATOR BILL WIELECHOWSKI, sponsor of SB 28, said he filed this bill in the past and it made it through a number of committees. It is in response to concerns he is hearing from Alaskans about very high fuel prices in Alaska.

SENATOR WIELECHOWSKI related that for too long Alaskans have been paying some of the highest fuel costs in the nation. This bill makes it an unfair trade practice for refiners, distributors or retailers to charge unconscionable prices for energy resources, heating oil and gasoline. The bill specifically amends the Unfair Trade Practices Act to add number 58 to the current list of 57 consumer protection items in the statute.

He explained that Alaska historically has paid 12 cents higher than the national average for gasoline; at one time Alaska was actually lower than the national average. However, in 2008 prices spiked to over \$1 more than the national average, and they have never settled back to where they had been. Currently, Alaskans are paying 43 cents higher than the national average.

SENATOR WIELECHOWSKI said that a number of years ago, he and Senator Davis asked the Attorney General to investigate this matter; the conclusion was similar to Attorney General Botelho's investigation in 2002, that the high prices are essentially a result of an oligopoly in Alaska among the refiners. An oligopoly is essentially a system that allows legal price gouging to occur.

Because Alaska's market is so small, it is not a free market. He said he understands that people don't want to interfere with the free market, but the government commonly intervenes with energy rates for heating oil, natural gas and hydro projects. For instance, the Federal Energy Regulatory Commission (FERC) limits rates on natural gas pipelines and oil pipelines, and Alaska has

the Regulatory Commission of Alaska (RCA) that was set up to protect Alaskan consumers from being over-charged for natural gas and other energy projects. All this bill is saying is that you can charge whatever you want, but if the prices you charge are unconscionable, then the state will not allow it.

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SENATOR WIELECHOWSKI said a lot of work had been done on this bill in previous sessions; a number of changes had been made to accommodate concerns of industry representatives and the administration. The penalty for charging these prices is no less than 10 times the economic benefit obtained by the suppliers, a specific request from Tesoro a number of years ago. Industry is specifically shielded from individual class action lawsuits, and this bill leaves enforcement to the sole discretion of the attorney general. Importantly, it makes it clear that a refiner, distributor or retailer may submit evidence that seemingly unconscionable prices are related to additional reasonable costs incurred with the sale of the resource.

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SENATOR WIELECHOWSKI said some of the bill's specifics are based on numbers he calculated about a year and a half ago when he introduced the same bill. Alaskans use about 25 million gallons of gasoline a month. He concluded at that time that every penny in additional costs added by refiners costs Alaskans about \$250,000 more as a whole. He reminded them again that Alaskan gasoline has typically averaged about 12 cents higher than national gasoline prices and today we are 43 cents higher. So assuming 31 cents per gallon is going to the refiners in excess charges, Alaskans are being over-charged \$7.75 million per month or \$93 million per year.

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He said he didn't have a problem with people making profit, but Alaskans shouldn't be gouged for a resource that they need and rely upon. If you assume every Alaskan uses 10 gallons per week, you're looking at an increased cost of about \$161 per person. This is essentially a tax that every working Alaskan is paying that goes to the refiner that is outside the state.

SENATOR WIELECHOWSKI showed a chart of the average refiner margins for gasoline in Alaska, Washington and the U.S. It showed that from 2004 refiner margins (profit) in Alaska tended to very closely track Washington and the U.S. as a whole. In July/August 2008, there was a huge spike - over one dollar difference, and that gap has never been closed. He said

considering that Alaska has the lowest gas taxes in the nation, that much of the oil comes from Alaska and virtually all of the gas is refined here resulting in very little in transportation charges, "There is absolutely no reason in the world that Alaska should be paying the highest or second highest gasoline prices in the United States, absolutely no reason for that at all!"

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SENATOR MENARD asked him to explain how small mom and pop gas stations would be gouged by the refiners and distributors. Wouldn't that force them out of business?

SENATOR WIELECHOWSKI replied this will have no impact on the small mom and pop gas stations. He explained that one can track what the average retail gasoline service station makes using public information; it's not a lot, about 15 to 25 cents per gallon. It hasn't changed much at all in recent years. This will have no impact at all on them; in fact this will probably benefit them, because when refiners charge higher prices the gasoline stations are faced with a choice: they either bump up their prices or they absorb some of the costs. A lot of them are actually absorbing some of the increased costs and that is who this bill would benefit. He said he had seen no evidence that gouging is occurring at the service station level.

SENATOR GIESSEL asked what "unconscionable" means.

SENATOR WIELECHOWSKI replied that he struggled with that. Initially, they set a specific standard, knowing that question would be asked, of no more than 10 percent higher than Seattle prices. The reason they picked that was because historically Alaska and Seattle prices track very similarly, with Alaska being a little higher sometimes. The refiners complained saying, "You can't tie us to Seattle, because what if something happens in Seattle? What if something happens in Alaska?"

He asked the refiners what they would like and came up with the term "excessive or exorbitant." The Department of Law didn't like that; so then they changed it to "unconscionable," because that is used by the courts. Senator Wielechowski said he personally would define "unconscionable" as more than 10 percent of Seattle prices.

SENATOR GIESSEL said that raised several questions. She asked the Pacific Northwest's predominant source of energy.

SENATOR WIELECHOWSKI replied a lot of their power is derived from wind, hydro and natural gas.

SENATOR GIESSEL responded that it is inexpensive there, but up here the predominant source of energy to do the refining process is diesel, which is rather high-priced. How do you reconcile the costs refineries face in Alaska with a very small market with the costs in Seattle?

SENATOR WIELECHOWSKI replied that many would argue the per kilowatt cost for wind or hydro is actually higher because the upfront capital costs to build it are extremely high. That being what it is, Alaska has two main refiners: Tesoro, which refines roughly 80 percent of the gasoline, and Flint Hills, which refines about 12 percent. The rest are some smaller companies throughout Alaska. The two really control the market, and Flint Hills is predominantly run with diesel. However, Tesoro is near Cook Inlet and they are very fortunate enough to have a natural gas market there. His understanding is that they use natural gas, which in many places is one of the cheapest sources of energy you can get.

THOMAS PRESLEY, staff to Senator Wielechowski, also pointed out that language in section (f) says if reasonable costs are associated with doing business in Alaska, those are a good reason for not being guilty of price gouging.

SENATOR GIESSEL thanked him for pointing that out, but she pointed out the added cost to a producer who has to go to court to defend himself. It's also her understanding that Tesoro imports a large amount of its oil from the North Slope and other countries, because Cook Inlet oil, which they were built to refine, is less and less available. Does that not add to their costs?

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SENATOR WIELECHOWSKI answered yes, that is true. They buy some of their oil on the spot market, but those transportation costs aren't much different from what other refiners in the United States that also buy on the spot market incur.

SENATOR MENARD said Alaskan refineries refine more gasoline than the state can consume and asked why the price for exported gas is sometimes lower than what is sold in Alaska. She stated she had a problem with that.

SENATOR WIELECHOWSKI replied that he would be concerned about that, too, but he wasn't aware of that happening.

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JAVEN OSE, citizen representing 650,000 Alaskans, said the biggest joke at the gas pump is that we own the resource. If we owned it, would we be paying this much for it? He asked them to consider collecting all the state credit cards for gasoline and make the people pay for it themselves. He said he is a typical retired 69-year old man and has an income of roughly \$15,000/year. He has \$6,800 in expenses not including \$3,000 for food. That leaves about \$100 a week for fuel.

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As a solution, he suggested finding a number that brings Alaska gasoline back to its \$1.75 or \$2.00/gallon price and selling it back to the refinery. They can tack on their refinery charge and the gas stations can make their 15 cents a gallon. The State of Alaska will not lose anything and it will be good will towards the people that are supposed to be the beneficiary of this great resource.

If it was up to him, he would have made a deal for no tariff in the state because of our location. Tesoro has been given every tax credit conceivable, and look what they are doing; opportunities for profit were too great to ignore! Saudi Arabia, one of our allies today, sells its gas for 50 cents a gallon. The Saudi citizens get \$75,000 a year a piece for all of their oil wealth. Venezuela has been keeping Alaskan villages supplied with diesel and heating fuel, and the state has been sitting on the bench. This has got to change, he exclaimed.

SENATOR MENARD commented that she knows that not one legislator has a state credit card for gasoline or heating fuel.

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ED SNIFFEN, Assistant Attorney General, Civil Division, Commercial and Fair Business Section, Alaska Department of Law (DOL), Anchorage, AK, said he was available for questions on SB 28. He appreciated being able to work with Senator Wielechowski on changing some of the wording in former iterations of the bill.

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MATT WALLACE, Executive Director, Alaska Public Interest Research Group (AKPIRG), said they are a non-profit, public interest advocacy organization with a focus on issues such as

consumer protection, good governance, and transparency. He supported SB 28, because it is about consumer protection and fairness issues.

He said Alaskans are rightfully upset about high prices at the pump. Right now the average gas price in Alaska is \$4.26 versus a U.S. average of about \$3.82. Transportation costs in Alaska, because it is so spread out, can make a huge impact on Alaskan pocket books. We're very near the highest price in the country; California's gas price is higher because of its higher state tax on it.

MR. WALLACE said lots of factors go into that final retail price. The tax regimes make a difference, but a factor unique to Alaska is just the lack of competition in the refining industry. When that happens, there is a much greater risk of price gouging and "unconscionable prices" being charged to Alaskan consumers. This bill provides a reasonable deterrent to this activity while limiting the enforcement mechanism to the Attorney General's office. It's possible this could get passed into law, and it would never get used because of that deterrent. The key piece is to have it on the books to provide the motivation to not charge these unconscionably high prices.

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SENATOR GIESSEL asked him why he said Alaska lacks a free market in refining.

MR. WALLACE replied that obviously Alaska doesn't have a legal monopoly; there are rules against that. But a number of factors make Alaska unique; its size and distance from the rest of the United States. It's technically possible for that competition to exist, but the economic bars are set so high that a limited number of sellers have a higher immunity to charging these prices.

SENATOR GIESSEL asked if he was saying that there are environmental factors that limit the number of people that are willing to take the risk to come into this market to build a refinery and attempt to support themselves and their workforce.

MR. WALLACE said that was correct.

SENATOR GIESSEL said this bill appears to vilify refineries and appears to be a jobs bill for attorneys and asked why he is not supporting simple price controls on gasoline.

MR. WALLACE replied that he would be happy to evaluate a proposal that would protect consumers in that way, but this bill is a good first step to provide a deterrent that doesn't exist now.

CHAIR EGAN said that completed public testimony on SB 28.

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SENATOR WIELECHOWSKI responded to a couple of Senator Giessel's statements. He did not call refiners "unreputable" and he was offended by the jobs-bill-for-attorneys comment. This is a bill that is trying to protect Alaskans, and he was sorry if she thought protecting Alaskans from price gouging was vilifying someone or a jobs bill for attorneys.

SENATOR GIESSEL responded that the gentleman who just testified said Alaska has a small market that costs a lot to get into. There are distance factors, and these are issues that can't be controlled. Therefore, refiners are not price-gouging Alaskans; they are attempting to make a reasonable living and provide wages for their staff and jobs for Alaskans. Opening up allegations about them is troubling, and she didn't see how it would help anything. If you want to control prices, you set price controls.

SENATOR WIELECHOWSKI responded that for years his chart shows that refiners were making healthy profits in Alaska until 2008 when they decided to start gouging Alaskans, and they have been gouging Alaskans ever since. He philosophically disagreed that refiners should have the ability to gouge Alaskans on an energy product that every single Alaskan in this state needs and uses.

CHAIR EGAN held SB 28 in committee.

[2:30:41 PM](#)

Finding no further business to come before the Labor and Commerce Committee, Chair Egan adjourned the Senate Labor and Commerce Standing Committee meeting at 2:30 p.m.