

HOUSE FINANCE COMMITTEE
February 24, 2014
1:53 p.m.

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CALL TO ORDER

Co-Chair Stoltze called the House Finance Committee meeting to order at 1:53 p.m.

MEMBERS PRESENT

Representative Alan Austerman, Co-Chair
Representative Bill Stoltze, Co-Chair
Representative Mark Neuman, Vice-Chair
Representative Mia Costello
Representative Bryce Edgmon
Representative Les Gara
Representative David Guttenberg
Representative Lindsey Holmes
Representative Cathy Munoz
Representative Steve Thompson
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Captain Steve Arlow, Statewide VPSO Coordinator, Department of Public Safety; Joe Masters, Former Commissioner, Department of Public Safety; James Hoelscher, Self, Hooper Bay; Daniel George, Staff, Co-Chair Stoltze; Charles Guinchard, staff, Representative Costello; Don Habeger, Director, Division of Corporations, Business and Professional Licensing, Department of Commerce, Community and Economic Development.

SUMMARY

HB 32 LINES OF BUSINESS ON BUSINESS LICENSE

CSHB 32(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal

impact note by the Department of Commerce, Community and Economic Development.

HB 199 VPSO FIREARMS

HB 199 was HEARD and HELD in committee for further consideration.

#hb199

HOUSE BILL NO. 199

"An Act relating to Department of Public Safety regulations allowing village public safety officers to carry firearms."

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AT EASE

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Representative Edgmon explained that the bill would insert language into state statute that would give the Division of Public Safety the authority to allow public safety officers, who otherwise met minimum standards in training, to carrying firearms. He assured the committee that the training that a Village Protection Safety Officer (VPSO) would undergo would be identical to that of a municipal police officer or state trooper. He noted that in Sitka, VPSOs, troopers and police officers would all have the same instructor. He offered a brief history of the VPSO program. He stated that the goal of the program had been to provide VPSOs in all of the rural communities in the state. In the early 1990s there were 130 active VPSOs in the state. He shared that the program had faced challenges with recruitment, retention, and placement. He stated that the conditions were improved with the changes including many capital upgrades, but many rural communities saw increased violence. He discussed the death of a VPSO in March 2013.

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Representative Edgmon introduced the idea of properly arming VPSO's in environments where they would be facing a perpetrator armed with a high-powered rifle. He noted that

HB 199 brought the conversation into the committee environment. He argued that the time had come to take action regarding VPSOs and rural Alaska. He noted fiscal element to properly training the VPSOs.

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Co-Chair Stoltze noted that Co-Chair Austerman and Representative Gara had joined the committee.

Vice-Chair Neuman offered concerns regarding the VPSO firearm training. He had heard testimony regarding VPSO and handgun training. He asked about psychological training that might accompany the firearm training. He asked how the state would address penalties for VPSOs that discharged a gun inappropriately.

Representative Edgmon responded that the training would be identical to that of state troopers and municipal police officers. He furthered that the training met the Alaska Police Standards Council training, as well as Alaska Law Enforcement training, requirements. He reminded the committee that the program was a pilot program with the goal of approximately 20 VPSO being successfully recruited and trained at the academy. He that the psychological evaluation would be identical to that of troopers and police officers, with a complete doctor's physical examination, full criminal background checks both statewide and through the Federal Bureau of Investigation.

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Vice-Chair Neuman asked whether the same psychological testing received by an Alaska State Trooper would be applied to a VPSO. He restated his question regarding misuse of the firearm by a VPSO.

Representative Edgmon replied that he did not know the penalties. He relayed that VPSO's would undergo the Use of Force Continuum Training, which trained officers brandishing firearms the necessary techniques for avoiding the use of deadly force. He said that, according to former Department of Public Safety commissioner Walt Monegan, instances where a weapon had been used for deadly force by law enforcement officers were rare. He though the department could provide further clarity.

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Representative Costello believed that the issue of misuse of firearms by VPSO's was important and had been brought to her attention by constituents.

Representative Edgmon responded that the implementation of bringing in the armed VPSO's would follow a similar process to how current VPSO's were established. He said that the topic of arming VPSO's had been a significant one for the people in charge of administering the program.

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Representative Gara supported the bill and hoped that there was committee support to craft the strongest piece of legislation possible. He wondered where in the bill it was stated that the trooper academy in Sitka would be used for VPSO firearm training.

Representative Edgmon replied that VPSO's were currently trained at the Alaska State Trooper Academy in Sitka, which he believed had been firmly established for the record.

Representative Gara asked whether VPSO's received the exact same training as troopers, or was the training different.

Representative Edgmon stated that the training to become a trooper was more extensive, obviously; but he understood that the firearm training would be similar.

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Representative Gara asked how the training between VPSO's and troopers differed.

Representative Edgmon deferred the question to the Department of Public Safety.

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Representative Munoz queried the difficulty the department had faced filling VPSO positions.

Representative Edgmon thought that allowing VPSO's to carry firearms would make them feel safer on the job. He believed

that if recruits could depend on a certain level of safety then positions would be easier to fill.

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Co-Chair Stoltze understood that collective bargaining units had shown interest in the legislation.

Representative Edgmon stated that the primary source of opposition to the bill had been about the concern for thorough and comprehensive psychological screening. He shared that there had been discussion surrounding the adequacy of the fiscal note to get the job done.

Co-Chair Stoltze hoped that opposition would be expressed in the committee process through open and honest debate.

Representative Edgmon believed that meaningful discussion would strengthen the effort.

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CAPTAIN STEVE ARLOW, STATEWIDE VPSO COORDINATOR, DEPARTMENT OF PUBLIC SAFETY, responded to Vice-Chair Neuman's question regarding deadly force. He relayed that often the Department of Public Safety would be tasked with the investigation of certain agencies. He said that the Alaska Bureau of Investigations would be brought in and the situation would be treated like a crime scene, the protocol would be to treat it like any other investigation. He shared that once the investigation was written up it would be reviewed by the Office of Special Prosecutions; if there was any indication that the officer had used inappropriate force, that office would evaluate the case and make a determination as to whether criminal charges should be filed against the offending officer. He related that if all indications showed that training skills and situations were justifiable then the Office of Special Prosecutions would clear the officer of the use of deadly force. He believed that the same protocol would apply to VPSOs.

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Mr. Arlow spoke to the selection of VPSOs for the pilot program. He stated that the issue had been under discussion for some time. He explained that VPSOs would be selected from particular regions and that it was already known which

regions would be good candidates. He said that the psychological evaluation would take priority and anyone who did not pass the evaluation would not continue on to the training in Sitka.

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Representative Costello asked whether a village VPSO that did not pass the psychological evaluation to carry a firearm would lose their job altogether.

Mr. Arlow replied that a VPSO would not be dismissed if they failed to be able to carry a firearm. He clarified that the VPSO would simply not be able to participate in the program.

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Co-Chair Austerman queried the difference between the psychological tests for a VPSO versus the test for a VPSO who would carry a firearm.

Mr. Arlow replied that he did not know the difference between the two tests. He thought a psychologist could provide a more accurate understanding of the process.

Co-Chair Austerman asserted that the situation sounded like a double standard.

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Representative Gara asked about the goal of adding 15 VPSOs each year for the next 10 years. He opined that only 16 had been added in the past 5 years. He wondered why the screening program was a pilot program.

Representative Edgmon responded that there were currently 29 vacant positions. He thought that the pilot screening program spoke to the careful steps taken by the department and non-profits in executing the program. He stated that candidates would be carefully screened and would most likely be candidates that had been VPSOs for some time. He stressed that this would be a fundamental change for the majority of all VPSOs.

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Co-Chair Austerman asked if Captain Arlow was in charge of the VPSO for the troopers.

Captain Arlow replied yes. He furthered that he had overseen the statewide VPSO program for the past 8 years.

Representative Munoz queried the current pay to VPSOs and what the department's intentions were to increase pay with additional training.

Captain Arlow stated that the VPSO salary was good. He stated that the department did not plan to increase the salary with the introduction of firearms.

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Captain Arlow stated that the VPSO program was a longstanding 40 year program without firearms. He furthered that the department wanted to be diligent that when an armed VPSO was introduced to a community, the community was accepting. He said that the program was a pilot program with the focus of starting off small so that the community reaction could be evaluated. He noted that VPSOs were often the only law enforcement presence in rural communities. He spoke to the Sitka Academy as the primary training location. He said that the VPSO firearm training would be the exact same training that any municipal police officer or state trooper would receive. He pointed out to the committee that the duties of a state trooper and a VPSO were different; a VPSO was a public safety servant with many other components, VPSOs were often first responders to scenes before troopers. He stressed that more extensive training went into training a trooper than a VPSO. He highlighted several of the differences:

- VPSOs received 88 hours of scenario based training, troopers and municipal officers received 280 hours.
- VPSOs received 8 hours of search and seizure training, troopers received 16 hours.
- VPSOs studied 36 hours of elements of law, troopers received 58 hours.

Captain Arlow relayed that both VPSOs and troopers were trained on the same elements, but troopers were trained more extensively. He said that this was because VPSOs would primarily deal with misdemeanor cases and troopers handled homicide and high profile cases.

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Co-Chair Stoltze asked about victim's rights training.

Captain Arlow responded that the topic would be touched on, but that it would be enhanced during field training.

Co-Chair Stoltze asked whether he was aware of the constitutional victims' right amendment. He discussed the importance of the issue.

Co-Chair Austerman asked about the Sitka training for VPSOs. He understood that there had been a shortage of VPSOs. He wondered if the VPSO would automatically receive firearm training at the academy.

Captain Arlow responded that the department intended to bring on future applicants that would be able to qualify for the firearm component.

Representative Gara asked whether VPSO received full training on how to respond to homicides, rapes, and assaults.

Captain Arlow clarified that the crimes were not different in rural areas versus urban areas, but that the VPSO training would have less training for crimes that were not traditionally seen in rural Alaska. He said that the crimes that would be trained on, specific to rural Alaska, were domestic violence and assault. He relayed that VPSO would not investigate the more complex crimes.

Representative Gara thought that the disparity in training was significant.

Captain Arlow thought that the additional hours of training for VPSOs would be firearms and scenario based training.

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Representative Edgmon interjected that if there was a felony situation the VPSO would secure and protect the scene and immediately contact the oversight trooper.

Captain Arlow noted from experience that many people in law enforcement were hoping to use firearms. The program had been successful. He thought that the firearms would bring

in a different caliber of applicants and alleviate turnover.

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Representative Gara asked whether the VPSO training would include navigating hostage or suicide situations.

Captain Arlow responded yes. He stated that the current academy provided training to deescalate those kind of situations; the courses that were believed to be valuable to a trooper would be administered to a VPSO.

Representative Gara wondered whether VPSOs would be informed on the work done by the Violent Crime Compensation Board.

Captain Arlow replied that VPSOs received training that included information about the board.

Co-Chair Stoltze added that there was a prepared pamphlet offered by the Office of Victim's Rights.

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JOE MASTERS, FORMER COMMISSIONER, DEPARTMENT OF PUBLIC SAFETY, testified in favor of the legislation. He noted that the sponsors had laid out a simple change that would require the Department of Public Safety to move forward with appropriate regulations to assure that VPSOs, if communities agreed, have the ability to be armed. He did not believe that the bill diminished the statutory or regulatory authority held by the commissioner to establish the minimum training and certification level. He declared that he had a firm understanding of the job, as it was his first position with the department. He believed that the proper tools should be available to VPSO's in order to defend themselves should the need arise. He stated that early iterations of the program had allowed for VPSOs in communities with liability insurance to carry firearms, a practice that ended in the mid-1980s. He said that most employers today were inclined to take on the additional liability to assure that the VPSOs in their communities were properly armed. He shared that he used to be a trainer at the academy in Sitka and that one of his duties was to conduct firearms training. He spoke of a program from the early 1990s, the VPSO Municipal Police Academy (MPA)

Transition, which provided additional training to selected VPSOs that met police standard certification levels and included firearms training. He relayed that in his experience there was no more difficulty in training VPSOs in the use of firearms than any other municipal police officer or trooper.

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Mr. Masters relayed that VPSO training should include training for the task of carrying a firearm so that they could do it safely, which did not mean that the training had to be on the same level at a trooper. He noted that security officers around the state were able to carry firearms without academy training. He asserted that there was wide support for the legislation because it was the right thing to do.

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Co-Chair Stoltze asked whether the department had supported the legislation when Mr. Masters was commissioner. Mr. Masters replied yes. Co-Chair Stoltze asked whether Mr. Masters had changed his mind since becoming a private citizen. Mr. Masters replied no. Mr. Masters replied that he endeavored to protect the citizens of Alaska. Co-Chair Stoltze asked if Mr. Masters had become more assertive in his support since becoming a private citizen. Mr. Masters said yes. He noted that during his time as commissioner he had started the process of a regulations change, which was currently still underway.

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Representative Gara asked whether VPSO's were trained in preserving evidence.

Mr. Masters replied that the difference was between immediately responding to an incident that occurred in a community, and then continuing the initial response into a prolonged investigative process. He said that in the situation of a felony crime the VPSO would most likely be the first responder and were appropriately trained in that regard. He relayed that VPSOs did not receive all of the training required to complete the investigative processes. He stated that VPSOs received training on what level was the appropriate use of force against individuals that were

a danger to themselves or others. He added that deadly force training was also administered but did not involve the use of firearms.

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JAMES HOELSCHER, SELF, HOOPER BAY, testified that he started as a village police officer in 1994, and had since received his certified police officer certificate. He said that in 2009 he had applied to be a VPSO and was hired and stationed in Hooper Bay. He relayed that families worried a great deal when sending their loved ones out as VPSOs, but that the worry was lessened when the officer was armed. He said that the stress that the job puts on families can make officers wonder if the job is worth the worry, but he believed that working the job was the best way he could serve his community. He stated that positions would be more easily filled by higher caliber applicants, and that retention and longevity numbers would increase, if VPSOs could carry guns

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Mr. Hoelscher testified that he worked in a community where law enforcement was what the community expected of him. He stated that areas more exposed to danger saw higher turnover rates for VPSOs, Hooper Bay had seen 7 VPSOs in the past 20 years. He believed that if the bill were to pass it would result in an increase in scenario based training for VPSOs. He related that all VPSOs received training in use of force situations. He communicated that VPSOs were currently unarmed and that the ability to carry a firearm would serve as a deterrent to keep larger crimes from happening.

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Co-Chair Stoltze CLOSED public testimony.

Representative Edgmon thanked the chairman for the latitude given to the discussion. He noted that over the 40 year history of the program there had been 2 VPSO fatalities, both in Bristol Bay.

HB 199 was HEARD and HELD in committee for further consideration.

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AT EASE

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RECONVENED

#hb32

HOUSE BILL NO. 32

"An Act providing for the issuance of one business license for multiple lines of business; and providing for reissuance of a business license to correct a mistake on the license."

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Vice-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 32, Work Draft 28-LS0192\R (Martin 2/20/14). Co-Chair Stoltze OBJECTED for discussion.

DANIEL GEORGE, STAFF, CO-CHAIR STOLTZE, testified that throughout the bill the term "lines of business" has been replaced with "trades, services, professions, or activities." The change could be on Page 1, line 1; Page 1, line 8; Page 1, line 12; Page 2, line 3 and 4; Page 2, line 21 and 25. He said that the CS included the addition of Section 4, Page 2, lines 14 through 17, which added the statutory definition of "lines of business" within the definitions of the Business Licensing Act.

Co-Chair Stoltze interjected that the changes had been made in consort with the sponsor and the Department of Commerce, Community and Economic Development.

Mr. George agreed.

Representative Costello stated that the CS was in direct response to a line of questions brought by Co-Chair Austerman at a previous hearing.

Representative Guttenberg asked whether the definition was new or if it could be found elsewhere in statute.

Mr. George replied that the words "trades, services, professions, or activities" were utilized within the definition in AS 43.71.10.001, but was not within the bill itself. It was meant to clarify a line of business.

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Representative Guttenberg understood that defining lines of business as trades and services allowed the department to better define them based on one licensing practice.

Mr. George deferred to the department or the sponsor.

CHARLES GUINCHARD, STAFF, REPRESENTATIVE COSTELLO, explained that the definition of business had been pulled from existing statute. He understood that the department interpreted it as a direct correlation to the federal NAICS codes.

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Representative Guttenberg requested assurances that there were not two versions of the meaning of "lines of business."

Mr. Guinchard replied that the intent of that change was to have the definition of the word "business" work together with the definition of "line of business." He said that the bill defined business as an entity that may accomplish various different things, whereas the definition of "line of business" would be any one particular thing done by the business.

Co-Chair Stoltze WITHDREW his OBJECTION. There being no further objection CS was adopted.

Representative Costello stated that the list of the business that would be affected had been provided to committee members. She noted that the fiscal note reflected the need for the administrative work. She noted that there would be a loss to the state of \$37,500, which she believed would be better managed by small business owners rather than the government.

Vice-Chair Neuman MOVED to REPORT HB 32 out of committee with individual recommendations and the accompanying fiscal note(s). There being NO OBJECTION, it was so ordered.

CSHB 32 (FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note by the Department of Commerce, Community and Economic Development.

Co-Chair Stoltze discussed housekeeping.

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ADJOURNMENT

3:29:27 PM

The meeting was adjourned at 3:29 p.m.