

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

March 26, 2014

3:39 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Lora Reinbold, Vice Chair  
Representative Bob Herron  
Representative Charisse Millett  
Representative Dan Saddler  
Representative Andy Josephson

**MEMBERS ABSENT**

Representative Mike Chenault  
Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 316

"An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date."

- MOVED CSHB 316(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 370

"An Act relating to employer drug testing; requiring the Alaska Workers' Compensation Board to adopt regulations relating to the prescription of controlled substances to employees; and limiting the prescription of controlled substances to employees."

- HEARD & HELD

HOUSE BILL NO. 281

"An Act relating to prescription of drugs by a physician without a physical examination."

- HEARD & HELD

HOUSE BILL NO. 336

"An Act relating to sales of alcoholic beverages near a school or church."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 316

SHORT TITLE: WORKERS' COMPENSATION MEDICAL FEES

SPONSOR(s): LABOR & COMMERCE

02/19/14	(H)	READ THE FIRST TIME - REFERRALS
02/19/14	(H)	L&C
03/07/14	(H)	L&C AT 3:15 PM BARNES 124
03/07/14	(H)	Heard & Held
03/07/14	(H)	MINUTE(L&C)
03/10/14	(H)	L&C AT 3:15 PM BARNES 124
03/10/14	(H)	Heard & Held
03/10/14	(H)	MINUTE(L&C)
03/14/14	(H)	L&C AT 3:15 PM BARNES 124
03/14/14	(H)	Scheduled But Not Heard
03/17/14	(H)	L&C AT 3:15 PM BARNES 124
03/17/14	(H)	Heard & Held
03/17/14	(H)	MINUTE(L&C)
03/24/14	(H)	L&C AT 3:15 PM BARNES 124
03/24/14	(H)	Heard & Held
03/24/14	(H)	MINUTE(L&C)
03/26/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 370

SHORT TITLE: AWCB CONTROLLED SUBSTANCE PRESCRIPTIONS

SPONSOR(s): LABOR & COMMERCE

03/03/14	(H)	READ THE FIRST TIME - REFERRALS
03/03/14	(H)	L&C, JUD
03/19/14	(H)	L&C AT 3:15 PM BARNES 124
03/19/14	(H)	Heard & Held
03/19/14	(H)	MINUTE(L&C)
03/26/14	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 281

SHORT TITLE: PRESCRIPTION WITHOUT PHYSICAL EXAMINATION

SPONSOR(s): GATTIS

01/27/14	(H)	READ THE FIRST TIME - REFERRALS
01/27/14	(H)	HSS, L&C
02/13/14	(H)	HSS AT 3:00 PM CAPITOL 106
02/13/14	(H)	Heard & Held
02/13/14	(H)	MINUTE(HSS)
02/27/14	(H)	HSS AT 3:00 PM CAPITOL 106
02/27/14	(H)	Moved CSHB 281(HSS) Out of Committee

02/27/14 (H) MINUTE(HSS)  
02/28/14 (H) HSS RPT CS(HSS) 4DP  
02/28/14 (H) DP: SEATON, PRUITT, KELLER, HIGGINS  
03/17/14 (H) L&C AT 3:15 PM BARNES 124  
03/17/14 (H) Heard & Held  
03/17/14 (H) MINUTE(L&C)  
03/26/14 (H) L&C AT 3:15 PM BARNES 124

BILL: HB 336

SHORT TITLE: ALCOHOL SALES NEAR SCHOOL/CHURCH

SPONSOR(S): TARR

02/24/14 (H) READ THE FIRST TIME - REFERRALS  
02/24/14 (H) L&C  
03/26/14 (H) L&C AT 3:15 PM BARNES 124

#### **WITNESS REGISTER**

ANNA LATHAM, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed the proposed committee substitute (CS) for HB 316, Version O, on behalf of the sponsor, the House Labor & Commerce Committee, Representative Kurt Olson, Chair.

MICHAEL MONAGLE, Director  
Central Office, Division of Workers' Compensation  
Department of Labor & Workforce Development (DLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions regarding HB 316.

ANNA LATHAM, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Reviewed proposed HB 370 on behalf of the sponsor, the House Labor & Commerce Committee, Representative Kurt Olson, Chair.

DON ETHERIDGE, Lobbyist  
Alaska State AFL-CIO  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 370.

RICK TRAINI, Business Representative  
Teamsters Local 959;

Member, Alaska Workers' Compensation Board (WCB)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition of HB 370.

REPRESENTATIVE LYNN GATTIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as prime sponsor of HB 281.

LAURA BROOKS, Health Care Administrator  
Office of the Commissioner - Anchorage  
Department of Corrections  
Galena, Alaska

**POSITION STATEMENT:** Testified during the hearing on HB 281.

ROBERT LAWRENCE, Doctor  
Chief Medical Officer  
Inmate Health  
Department of Corrections  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 281.

KATE BURKHART, Executive Director  
Alaska Mental Health Board  
Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 281.

REPRESENTATIVE TARR  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 336.

MIKE COONS  
Palmer, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 336.

KEIRA NOGGLE, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

DEVIN OWENS, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

MARY WILLOYA, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

NYA NUER BIDIT, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

ALEXANDER ALVEREZ, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

ALYSHIA PATTERSON, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

DWYNE NICKOLS, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

DAVID COLLINS, Student  
Clark Middle School  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 336.

PAUL FUHS, Lobbyist  
Fairview Business Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 336.

#### **ACTION NARRATIVE**

[3:39:17 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:39 p.m. Representatives Saddler, Josephson, Herron, Millett (via teleconference) Reinbold, and Olson were present at the call to order.

#### **HB 316-WORKERS' COMPENSATION MEDICAL FEES**

[3:39:44 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 316 "An Act relating to workers' compensation fees for medical treatment and services; relating to workers' compensation regulations; and providing for an effective date." [Version 0 was before the committee, adopted on 3/10/14.]

[3:40:12 PM](#)

ANNA LATHAM, Staff, Representative Kurt Olson, Alaska State Legislature, stated that HB 316 proposes to change the medical schedule for workers' compensation from a usual and customary and reasonable (URC) schedule with a geographical differential built at the 90th percentile, which the state has been using for the past ten years, to a fee schedule based on the Center for Medicare and Medicaid Services, a resource-based relative value scale, along with the conversion factor the Workers' Compensation Board will set under the advisement of the Medical Services Review Committee (MSRC).

[3:41:06 PM](#)

REPRESENTATIVE REINBOLD made a motion to adopt Amendment [2] labeled 28-LS1362\0.5, Wallace, 3/24/14, which read as follows:

Page 4, line 16:  
Delete "January 1, 2015"  
Insert "July 1, 2015"

CHAIR OLSON objected for the purpose of discussion.

[3:41:22 PM](#)

MS. LATHAM explained that this change would give the MSRC an additional six months to reconvene and set the original conversion factors; the committee has not met since 2009.

CHAIR OLSON explained that [Amendment 2] is an attempt to [set the fee schedule appropriately], and the additional six months will allow the MSRC adequate time to make sure to get "all the kinks out of it."

[3:42:17 PM](#)

REPRESENTATIVE SADDLER asked which organization will have the delay.

MS. LATHAM answered that the MSRC will have the additional time to reconvene. The MSRC will advise the Workers' Compensation Board (WCB) on setting the conversion factors. She stated that originally some concern was expressed about the WCB setting the schedules since the board doesn't have the expertise, the medical background, or experience to do so. She related that in the proposed committee substitute, [Version 0], the MSRC is designated as the committee to advise the WCB.

CHAIR OLSON removed his objection. There being no further objection, Amendment 2 was adopted.

[3:43:23 PM](#)

REPRESENTATIVE JOSEPHSON said he was unsure of the goal of the bill and expressed concern that the legislature is delegating a considerable amount and delegating some of that to the MSRC, which has been defunct.

CHAIR OLSON suggested "inactive" might be a better choice.

REPRESENTATIVE JOSEPHSON agreed. He said he did not hear enough testimony whether needs of injured workers will continue to be met in workers' compensation law. The committee heard testimony from concerned doctors who said if the rates are significantly reduced, doctors will not be able to see these patients. Additionally, an attorney, Michael J. Jensen, sent a letter to that effect [in members' packets]. He recapped his fundamental concerns, including concerns about prescription drugs, although he acknowledged he may propose some amendments later.

CHAIR OLSON reminded Representative Josephson that the prescription drugs are not part of this bill.

[3:45:01 PM](#)

REPRESENTATIVE JOSEPHSON argued that prescription benefits are part of HB 316. He noted previous testimony from the Workers' Compensation Committee of Alaska on March 7, 2014, indicating that doctors have a "blank check" for two years without any recourse to question or limit costs. He said that may or may not be true; however, he expressed concern that too much regulation might be occurring. Certainly, premium costs need to be reduced. He questioned, as raised by testimony in an unrelated bill, whether some of these premiums are related to the high costs in Alaska since rates are high across the board, not just for workers' compensation patients. Primarily, he

would like to afford injured workers time to get better access to medical care.

CHAIR OLSON told him that he shares this goal.

[3:46:14 PM](#)

MICHAEL MONAGLE, Director, Central Office, Division of Workers' Compensation, Department of Labor & Workforce Development (DLWD), echoed the Chair's comments. It is certainly not the department's intent to reduce medical fees to the point that doctors will not treat injured workers and direct them elsewhere to get the quality of treatment needed. Certainly, as the department works with the MSRC and the WCB to achieve conversion factors, it will not be his intent to reduce reimbursement to doctors to the point that doctors refuse to treat injured workers.

[3:47:15 PM](#)

REPRESENTATIVE JOSEPHSON declared a conflict of interest as he has an existing workers' compensation claim of his own stemming from a car accident injury. In response to a question, he answered that it is incumbent upon him to make the record clear. He then said, "I would love to vote."

CHAIR OLSON thanked him for declaring the conflict.

[3:47:52 PM](#)

CHAIR OLSON reported that Representative Millett is on-line.

REPRESENTATIVE REINBOLD moved to report the proposed committee substitute (CS) for HB 316, Version 0, labeled 28-LS1362\0, Wallace, 3/10/14, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 316(L&C) was reported from the House Labor and Commerce Standing Committee.

[3:48:54 PM](#)

The committee took an at-ease from 3:48 p.m. to 3:50 p.m.

**HB 370-AWCB CONTROLLED SUBSTANCE PRESCRIPTIONS**

[3:50:46 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 370, "An Act relating to employer drug testing; requiring the Alaska Workers' Compensation Board to adopt regulations relating to the prescription of controlled substances to employees; and limiting the prescription of controlled substances to employees."

CHAIR OLSON reported HB 370 was previously heard on March 19, 2014 and the committee took public testimony.

[3:50:55 PM](#)

ANNA LATHAM, Staff, Representative Kurt Olson, Alaska State Legislature, stated that Section 1 authorizes employers to drug test injured workers for controlled substances listed in Schedule IA of AS 11.71.140 if the employees have been prescribed a controlled substance for over 90 days as the result of a workplace injury. Section 2 would require the Alaska Workers Compensation Board (AWCB) to adopt regulations pertaining to the prescription of controlled substances to implement Section 3. Section 3 would limit a physician's prescription of a controlled substance listed in Schedule IA, under AS 11.71.140, or a controlled opium substance listed in Schedule III-A under AS.11.160, or in Schedule V-A under AS 11.71.180. This bill, HB 370, would discourage the use of long-term opioids by restricting prescriptions to a 30-day supply. In the event an employee's drug test is positive, meaning the employee is taking their prescription to manage pain, no action would be taken. The sole intent of the bill in the event that an employee's drug test report is negative would be to deny payment of the prescription as it relates to a workers' compensation claim.

[3:52:25 PM](#)

CHAIR OLSON reopened public testimony.

DON ETHERIDGE, Lobbyist, Alaska State AFL-CIO, expressed concern about the drug testing in Section 1. He asked what would happen if an employee is not taking the proper amount of drugs being prescribed for pain relief. Although he understands the intent of the bill, nothing in the bill states that the claim won't be controverted or that an employee might be ordered to go back to work. He related a scenario in which a person had a broken neck, but refused to take pain medications. The claims adjuster suggested that the worker was not hurt that bad, even though the worker had four steel plates in his neck. He related his own

experience with pain medication post-surgery, such that he might take one or two pills the first day, but that he preferred to avoid taking pain medication. The ramifications of not taking prescription drugs should be clearly stated in the bill, he said. He specified that the AFL-CIO does not object to the provision limiting prescribed drugs to a 30-day limit. He suggested that at the last hearing the implication was that all injured workers are either drug addicts or are "peddling" drugs. He [did not believe that was the case.]

CHAIR OLSON responded that he certainly did not think so. He voiced his goal is to get employees back to work.

MR. ETHERIDGE related that was his only concern. He said that if an employee is drug tested before employment or during work, that the employee could be suspended or terminated. He would like to know any ramifications by the employer if the injured worker is taking too many or too few prescription drugs.

[3:55:45 PM](#)

RICK TRAINI, Business Representative, Teamsters Local 959; Member, Alaska Workers' Compensation Board (WCB), urged members not to support HB 370. He stated that the focus of the bill is not treatment directed. He said he is serving his second term on the WCB and has only experienced one instance of an employee not taking prescribed medicine.

The committee took an at-ease from 3:57 p.m. to 3:59 p.m. due to audio problems.

[3:59:06 PM](#)

MR. TRAINI restated that he has experienced only one case in which an injured employee was not taking prescribed medication.

[HB 370 was held over.]

[4:00:11 PM](#)

The committee took an at-ease from 4:00 p.m. to 4:02 p.m.

**HB 281-PRESCRIPTION WITHOUT PHYSICAL EXAMINATION**

[4:02:29 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 281, "An Act relating to prescription of drugs by a physician without a physical examination." [Before the committee was CSHB 281(HSS)].

[4:02:39 PM](#)

REPRESENTATIVE LYNN GATTIS, Alaska State Legislature, stated that HB 281 clarifies in statute that physicians cannot be sanctioned for dispensing or administering prescription medications without conducting a physical exam of the patient if some basic stipulations are met in a practice called telemedicine. Under HB 281, care would be delivered by primary care physicians licensed in Alaska, and patients would be able to obtain over the phone or on-line consultations in which physicians can diagnose an ailment and if necessary, prescribe prescription medicine; however, physicians could not prescribe controlled substances. At the last hearing, a concern was raised about overprescribing. She reported that her information shows that the national average prescribing rate for common uncomplicated diagnoses is 82 percent in the "brick and mortar" setting, and 77 percent in the telehealth setting, per Teladoc's 156,000 consultations. The efficient quality of the system comes down to cost and access for the average citizen. These practices can have favorable impacts because of access to care for individuals living in rural and urban settings.

[4:04:32 PM](#)

CHAIR OLSON reported that his office received concerns from the Department of Corrections (DOC). He anticipated a forthcoming amendment that will be considered at a later hearing.

LAURA BROOKS, Health Care Administrator, Office of the Commissioner, Department of Corrections, introduced herself.

[4:05:39 PM](#)

The committee took an at-ease from 4:05 to 4:21 p.m. due to audio issues.

[4:21:17 PM](#)

ROBERT LAWRENCE, Doctor; Chief Medical Officer; Inmate Health, Department of Corrections, with respect to DOC, discussed different forms of telemedicine. One type of telemedicine that has been practiced in the state involves provider-to-provider

communications, in which a nurse contacts a physician and orders are given over the phone or via Internet. A second type of telemedicine involves direct patient to medical provider communication, specifically when a patient has a preexisting relationship with the provider; however, this bill introduces a new form of telemedicine to the state, in which a patient is allowed to contact a medical provider without having a preexisting doctor-to-patient relationship.

DR. LAWRENCE said DOC's concern is that the HB 281 inadvertently hampers the department's ability to provide services in rural Alaska using telemedicine in ways that are already approved by the medical board, specifically in terms of controlled substances. For example, a physician in the DOC often will be called for a prescription involving a controlled substance for a patient in a remote DOC facility. The department needs to retain the ability to give the prescriptions at a distance instead of sending the inmates to an emergency room or to ask other providers to be available. Secondly, the department is affected by the requirement on page 2 that the physician must be physically located in the state in order to render care over the phone or by other means. Those are the two primary concerns, he said, and he understood the sponsor is working to accommodate those. He appreciated working with the sponsor on these issues.

CHAIR OLSON acknowledged that the committee is working with the sponsor and DOC on the aforementioned changes to the bill.

[4:24:55 PM](#)

KATE BURKHART, Executive Director, Alaska Mental Health Board, Department of Health and Social Services (DHSS), stated the Alaska Mental Health Board (AMHB) is the state planning council for issues related to mental health. She said the board has reviewed the bill and appreciates the sponsor's support for telemedicine. She recalled earlier testimony about the types and forms of telemedicine in the state. The AMHB acknowledged that while the bill doesn't speak directly to tele-psychiatry, it was important to place on the record how tele-psychiatry works and its importance to patients.

MS. BURKHART explained that tele-psychiatry in the publically-funded behavioral health system is integral to mental health services. In many communities, the ability to recruit and retain psychiatrists is hampered by geography and compensation. She reported the current vacancy rate for psychiatrists is almost 25 percent and many communities wait years to find a

psychiatrist. Community behavioral health centers and federally qualified health centers that offer mental health services often contract with psychiatrists who are licensed psychiatrists in Washington but often practice in the Pacific Northwest. In addition, psychiatrists from the University of Washington and Children's Hospital are frequently contracted with to provide tele-psychiatry services. These psychiatrists often prescribe medications in the course of mental health treatment and some are controlled substances; however, these drugs are not what this bill intends to prevent being diverted into inappropriate uses; rather, they are anti-anxiety medications and similar medications that are part of an ongoing course of treatment.

MS. BURKHART stated that psychiatrists practicing through telemedicine work in conjunction with community behavioral health centers, where clients present and are impaneled at a community behavioral health center for mental health services such as therapy, case management, life skills, and rehabilitative services. She further stated that psychiatrists provide medications necessary to stabilize and manage chronic health conditions, which is part of an ongoing relationship. In fact, tele-psychiatry is not used in acute psychiatric situations, but is part of ongoing care, although tele-psychiatry is sometimes used in those situations in Bush Alaska when a psychiatric emergency arises. In community behavioral health centers, the importance of tele-psychiatry is to provide ongoing mental health treatment. Although the bill does not speak directly to psychiatry, the AMHB felt it was important to provide an overall context of how tele-psychiatry works and the importance of providing this access to rural Alaskans.

[4:29:07 PM](#)

CHAIR OLSON recalled a number of people in the medical community in the late 1970s came to Alaska through the Bureau of Indian Affairs or the military. He said these doctors received tuition repayment for each year they stayed in Alaska, with about 75 percent remaining in the state. He asked whether that type of program is currently happening.

MS. BURKHART replied that issues related to recruitment of psychiatrists that he addresses includes practitioners who are now retiring. She explained that recruiting doctors in the early or middle part of their career is more difficult if the doctors have not had experience in Alaska. Some attempts have been made to establish a psychiatric residency in Alaska, since doctors tend to practice in a close proximity of their

residency; however, the board has not been able to establish that residency. The state has a relationship with the Western Washington WWAMI program to help with recruitment, but part of the issue is the cost of living and conditions. For example, Fairbanks has struggled for years to recruit and retain psychiatrists, in part because the military is a competitive employer and pays a higher salary, thus the hospital and community behavioral health center and tribal providers have had trouble competing. In Ketchikan, Community Connections provides services to people with developmental disabilities and early childhood mental health, but also contracts with a psychiatrists at Children's Hospital. Although the Ketchikan community has recently had two psychiatrists, neither is a child psychiatrist. She reported that all of the psychiatrists providing services in the publically-funded system are licensed in the state, which is the quality assurance mechanism.

[4:32:09 PM](#)

REPRESENTATIVE JOSEPHSON referred to the description of tele-psychiatry, and he recalled that people in Alaska used providers in Washington State. He asked whether the provider would have licensure in Juneau.

MS. BURKHART stated that the integrated behavioral health regulations require that the client be present at the behavioral health center and a clinician is with them during the appointment, in part, to navigate equipment and ensure continuity of care. The state will not reimburse the appointment without this method. Therefore, a client is not being served at home with the tele-psychiatrist appointment.

[4:33:39 PM](#)

REPRESENTATIVE HERRON said that in his region communities have contracted for services from someone in Minnesota. He asked for the average vacancy rate in the Lower 48 and how it compares to the 25-percent vacancy rate for psychiatrists in Alaska.

MS. BURKHART recalled the board had a presentation on the vacancy rate, and an expected vacancy in the community health system is 10 percent and anything over that requires planning efforts. In the health care industry in Alaska, they are looking at those fields with 11 percent or over, but psychiatry has the highest rate.

REPRESENTATIVE HERRON asked whether this is a national trend.

MS. BURKHART said it depends on the community and the subspecialty. For example, geriatric psychiatry has often been in demand and is provided through tele-psychiatry in Alaska, but the practice is robust in Florida. She offered to provide the national average on vacancy rates for psychiatrists.

[4:35:35 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 281.

[HB 281 was held over.]

The committee took a brief at-ease.

**HB 336-ALCOHOL SALES NEAR SCHOOL/CHURCH**

[4:36:59 PM](#)

CHAIR OLSON announced that the final order of business would be the HOUSE BILL NO. 336, "An Act relating to sales of alcoholic beverages near a school or church."

[4:37:03 PM](#)

REPRESENTATIVE TARR, Alaska State Legislature, as sponsor, stated HB 336 was introduced at the request of students at Clark Middle School. In her neighborhood several stores near schools sell alcohol, and some students have encountered situations in which they feel unsafe, including intoxicated individuals who engage in inappropriate behavior such as urinating in public or fighting. These students discussed the issues and suggested this bill as one piece of that effort, noting students have also been working on conditional use permits for liquor stores. This is an opportunity to think about the future and contemplate whether these uses are compatible uses. This bill would extend the buffer zone for alcohol sales and schools from 200 feet to 400 feet. However, this isn't a new idea and bills were previously introduced in 2001. Per the National Conference of State Legislatures (NCSL), 35 other states have a distance restriction, and of those, 25 have some limitation between 300 and 1,000 feet. Thus, the current 200-foot restriction is relatively low and 400 feet seemed to be a good remedy for a situation in which uses may not be compatible ones. The liquor businesses are not at fault, and like any other businesses, these stores provide jobs in the community. In addition, she

offered her appreciation for the economic impact businesses have on the community; however, in these instances the incompatible uses has arisen. Again, this bill would change the restriction for alcohol sales from within 200 to within 400 feet from a public entrance of a church or school.

[4:40:33 PM](#)

MIKE COONS stated that he is changing his testimony from an earlier e-mail submission, since he now understands why this bill is being brought forward. He asked whether any issues have arisen with respect to the school, and if so, he was certain it would have resulted in school lockdowns. He also wondered whether students were sneaking out. Now that he is better informed, he wonders how many schools will be affected and if this problem is a statewide epidemic. He asked whether police could patrol the vicinity when students are likely to be walking near the schools. However, he did not see the need for a bill to globally change the distance. He urged members not to pass the bill and to let the communities make the needed changes.

REPRESENTATIVE REINBOLD said she appreciated his comments. She related an instance in her community in which the Wal-Mart was built and applied for a liquor license. The community council voted against it but the assembly approved the license. She said it was tough for the community to deal with the issue. She appreciated this bill being brought forward.

[4:43:26 PM](#)

KEIRA NOGGLE, Student, Clark Middle School, spoke in support of HB 336. She stated that preventing a store, bar, or club from serving or selling liquor within 400 feet of a school is important to her because she wants to feel safe going to and from school. She has been harassed when she has walked past the liquor store by inebriated people who whistled at her. She said that these inebriates harm and harass students. It is unfair that students at Clark Middle School must go through this. She urged members to please support HB 336.

[4:44:39 PM](#)

DEVIN OWENS, Student, Clark Middle School, offered support for HB 336, preventing a store, bar, or club from serving or selling liquor within 400 feet of a school, which is important because intoxicated people do thoughtless things to youth. This student has personally experienced an intoxicated person trying to break

into a student's car while the car was occupied. Further, intoxicated people try to pressure young adults to drink alcohol and also harass them. She maintained that Clark Middle School students should not be subjected to the inappropriate behavior.

[4:45:42 PM](#)

MARY WILLOYA, Student, Clark Middle School, offered support for HB 336. This is important because people drink and sleep near the schools and students encounter inebriates as they walk to and from their homes and school. She said that she tries to avoid the intoxicated people because they make her feel unsafe and scared. She urged members to support HB 336.

[4:46:34 PM](#)

NYA NUER BIDIT, Student, Clark Middle School, offered her support for HB 336. This is important because of drunk driving. She has nearly been hit by an intoxicated driver while walking home, which is not an experience students should encounter. Students should not have to encounter intoxicated people. She urged members to support HB 336.

[4:47:23 PM](#)

ALEXANDER ALVEREZ, Student, Clark Middle School, offered support for HB 336, as it is important because students are harassed by intoxicated people who are constantly asking for spare change and money. He said he doesn't want that to happen to students. He urged members to support HB 336.

ALYSHIA PATTERSON, Student, Clark Middle School, offered support for HB 336 because she walks past both liquor stores daily and is harassed. She described an incident in which intoxicated people followed her and some of her friends. They yelled inappropriate things and threw liquor bottles on the ground that nearly injured her friend. Even trying to avoid inebriates by turning corners wouldn't stop them. She offered her belief that this can happen to any student walking home and she did not think it was fair. She urged members to support HB 336.

[4:49:08 PM](#)

DWYNE NICKOLS, Student, Clark Middle School, offered support for HB 336. This is important to him because students should be afforded the same opportunities to walk in safe neighborhoods as other students. He urged members to support HB 336.

4:49:54 PM

DAVID COLLINS, Student, Clark Middle School, offered support for HB 336 because intoxicated people harass students, fight, and ask for change. Many of them are near the school and liquor store and walk on the school property, which is why he doesn't want liquor stores to be near the school.

4:50:58 PM

REPRESENTATIVE HERRON asked whether the students have pursued the Municipality of Anchorage's (MOA) nuisance provision process. He said that if there is a constant stream of complaints against a business the community can start a process to close the business.

REPRESENTATIVE TARR responded that she and the students have been trying to work through the permit renewal process. She referred to an article in members packets entitled "Assembly requires new permitting for [two] Mountain View liquor stores." She said that she has been using the conditional use provisions rather than attempting to close the stores down. If problems can't be resolved using the conditional use process, the nuisance process will be the next step. She related that the store owners have come before the Mountain View Community Council on several occasions and she appreciated the store owners' positions as responsible business owners. She hoped this bill would help keep a future action from happening.

4:52:46 PM

KEIRA NOGGLE said that the students haven't tried the nuisance process but believe the bill is a great bill to pass.

4:53:15 PM

REPRESENTATIVE HERRON said the sponsor indicated the local community council has been working on conditional use permits; however, he recalled when he worked as a city manager one store was difficult to work with so a nuisance law was put into place. He suggested the sponsor could try parallel tracks to address the issue since the nuisance process is different than the conditional use permit. He said one aspect with the nuisance process is that the police must respond to each complaint. Again, if the students complain through the nuisance process it would not interfere with the conditional use process. He also

suggested the nuisance process could help document the frequency of problems.

[4:54:37 PM](#)

REPRESENTATIVE HERRON suggested increasing the restriction to 1,000 feet and aim high rather than to take the minimum approach.

REPRESENTATIVE TARR appreciated the support. She reported that most states restrict alcohol sales from 300-1000 feet, so the starting point is 400 feet; however, she is open to extending the buffer.

[4:55:45 PM](#)

REPRESENTATIVE MILLETT asked how many liquor stores are near Clark Middle School that would fall within the 400 [feet] area.

REPRESENTATIVE TARR answered two liquor stores fall within 400 feet of Clark Middle School. She said that if this provision was in place, that they would be need to be relocated.

[4:56:34 PM](#)

REPRESENTATIVE MILLETT asked whether liquor store owners were contacted to find out if they were willing to cooperate.

REPRESENTATIVE TARR answered yes; that a subcommittee has been working on it. She acknowledged that some tension exists since businesses want to operate profitable businesses yet still meet the requirements of the law. However, the businesses were aware that students have encountered intoxicated individuals and feel unsafe. The liquor stores have been receptive to the negative community response. She reiterated she has been working with the business owners to understand their position, noting that these stores are operating legal businesses. She pointed out that this really highlights the need for additional substance abuse treatment, which is a long-term solution. She described the bill and [nuisance process] as intermediate steps.

[4:58:04 PM](#)

REPRESENTATIVE MILLETT suggested that if the liquor store owners had children attending the school they might better understand the issue.

REPRESENTATIVE TARR agreed.

[4:58:15 PM](#)

REPRESENTATIVE SADDLER said he was not hearing that this problem is statewide problem, but rather that it seems like a local problem. He offered his support for the approach Representative Herron suggested. He asked whether the current liquor stores would be grandfathered in under the bill.

REPRESENTATIVE TARR agreed they would be grandfathered in.

[4:58:50 PM](#)

REPRESENTATIVE SADDLER related he did not know much about zoning, but he was unsure how effective the bill would be for new construction for bars. He suggested that the patrons of the store seem to be the issue rather than the store. He wondered how the additional 200 feet would address the problem since it doesn't take long to walk that extra distance.

REPRESENTATIVE TARR recognizes this bill won't affect these establishments, which is the reason to simultaneously pursue the conditional use process. However any current schools or churches will not be affected by the bill, but due to the current discussion of charter schools and new school development, this bill identifies a problem that might be avoided in the future. She acknowledged that Representative Herron's suggestion to extend the buffer is a good one. She indicated that incompatible uses can exist and if 200 feet isn't an adequate distance, she agreed extending the buffer could help. This could be a useful tool worth considering, but she is taking other steps to address the substance abuse, acknowledging that although this bill is not about substance abuse issues, it is one part of several things that can be done.

[5:01:27 PM](#)

REPRESENTATIVE SADDLER was unsure how is this is a useful tool to combat alcohol abuse.

REPRESENTATIVE TARR said that one of the things is to discourage kids from abusing alcohol. She would like to shield students from the types of experiences they have had with inebriated persons near the school. She suggested that students spend their school day thinking about their future and how to be responsible, but walk outside to see something in stark

contrast. She would prefer to have students walk away with positive messages to mull over rather than having the negative encounters and potentially be encouraged to try substances, which should be avoided.

[5:03:17 PM](#)

PAUL FUHS, Lobbyist, Fairview Business Association, said that the association has supported the bill, but it is part of a general bigger problem. He suggested that if one store is closed or is restricted it will show up someplace else. He said that "we live with this every day." He anticipated that legislators will hear more and more of this until something is done to resolve it. He offered to provide written comments, which suggests a "no sell list" for habitual problem drinkers to focus on the problem and not on the business. The Fairview Business Association further suggests a case-managed and coordinated treatment program using alcohol tax funds. He said an increase in alcohol taxes was passed to provide additional funds for treatment.

[5:04:18 PM](#)

CHAIR OLSON asked if it was an increase in alcohol tax in 2002.

MR. FUHS agreed the increase was \$.10 per drink with about half of the amount currently being spent on treatment.

[5:04:29 PM](#)

MR. FUHS said that the Cabaret, Hotel, Restaurant, and Retailer's Association's (CHARR) and the Municipality of Anchorage's official position is that alcohol tax funds should be spent on treatment. He characterized the current situation as being unacceptable.

[HB 336 was held over.]

[5:05:01 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:05 p.m.