

**ALASKA STATE LEGISLATURE  
HOUSE RULES STANDING COMMITTEE**

April 16, 2014

9:03 a.m.

**MEMBERS PRESENT**

Representative Craig Johnson, Chair  
Representative Mike Chenault  
Representative Mike Hawker  
Representative Bob Herron  
Representative Wes Keller  
Representative Kurt Olson  
Representative Max Gruenberg

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 200

"An Act establishing a right of action for the death of an unborn child in certain circumstances."

- MOVED HCS SB 200(RLS) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 201(JUD)

"An Act relating to the crime of trespass."

- MOVED CSSB 201(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 287

"An Act approving and ratifying the sale of royalty oil by the State of Alaska to Tesoro Corporation and Tesoro Refining and Marketing Company LLC; and providing for an effective date."

- MOVED CSHB 287(RLS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 200

SHORT TITLE: WRONGFUL DEATH OF AN UNBORN CHILD

SPONSOR(s): SENATOR(s) MCGUIRE

02/24/14	(S)	READ THE FIRST TIME - REFERRALS
02/24/14	(S)	JUD

03/10/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/10/14 (S) Heard & Held  
 03/10/14 (S) MINUTE(JUD)  
 03/12/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/12/14 (S) Moved SB 200 Out of Committee  
 03/12/14 (S) MINUTE(JUD)  
 03/14/14 (S) JUD RPT 4DP 1AM  
 03/14/14 (S) DP: COGHILL, MCGUIRE, OLSON, DYSON  
 03/14/14 (S) AM: WIELECHOWSKI  
 03/14/14 (S) TRANSMITTED TO (H)  
 03/14/14 (S) VERSION: SB 200  
 03/17/14 (H) READ THE FIRST TIME - REFERRALS  
 03/17/14 (H) RLS  
 04/03/14 (H) RLS AT 5:00 PM CAPITOL 120  
 04/03/14 (H) <Bill Hearing Canceled>  
 04/13/14 (H) RLS AT 2:00 PM CAPITOL 120  
 04/13/14 (H) -- MEETING CANCELED --  
 04/14/14 (H) RLS AT 5:00 PM CAPITOL 120  
 04/14/14 (H) -- MEETING CANCELED --  
 04/16/14 (H) RLS AT 9:00 AM CAPITOL 120

BILL: SB 201

SHORT TITLE: NOTICE AGAINST TRESPASS

SPONSOR(s): SENATOR(s) STEDMAN

02/24/14 (S) READ THE FIRST TIME - REFERRALS  
 02/24/14 (S) JUD  
 03/17/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/17/14 (S) Heard & Held  
 03/17/14 (S) MINUTE(JUD)  
 03/28/14 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
 03/28/14 (S) Moved CSSB 201(JUD) Out of Committee  
 03/28/14 (S) MINUTE(JUD)  
 03/31/14 (S) JUD RPT CS 3DP 1NR SAME TITLE  
 03/31/14 (S) DP: COGHILL, MCGUIRE, OLSON  
 03/31/14 (S) NR: WIELECHOWSKI  
 03/31/14 (S) FIN REFERRAL ADDED AFTER JUD  
 04/07/14 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 04/07/14 (S) Heard & Held  
 04/07/14 (S) MINUTE(FIN)  
 04/08/14 (S) FIN RPT CS(JUD) 4DP 2NR 1AM  
 04/08/14 (S) DP: MEYER, HOFFMAN, BISHOP, FAIRCLOUGH  
 04/08/14 (S) NR: KELLY, OLSON  
 04/08/14 (S) AM: DUNLEAVY  
 04/08/14 (S) FIN AT 9:00 AM SENATE FINANCE 532  
 04/08/14 (S) Moved CSSB 201(JUD) Out of Committee  
 04/08/14 (S) MINUTE(FIN)

04/12/14 (S) TRANSMITTED TO (H)  
 04/12/14 (S) VERSION: CSSB 201(JUD)  
 04/13/14 (H) READ THE FIRST TIME - REFERRALS  
 04/13/14 (H) RLS  
 04/16/14 (H) RLS AT 9:00 AM CAPITOL 120

BILL: HB 287

SHORT TITLE: APPROVE TESORO ROYALTY OIL SALE  
 SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/29/14 (H) READ THE FIRST TIME - REFERRALS  
 01/29/14 (H) RES, FIN  
 03/03/14 (H) RES AT 1:00 PM BARNES 124  
 03/03/14 (H) Scheduled But Not Heard  
 03/05/14 (H) RES AT 1:00 PM BARNES 124  
 03/05/14 (H) Scheduled But Not Heard  
 03/06/14 (H) RES AT 12:00 AM BARNES 124  
 03/06/14 (H) Moved Out of Committee  
 03/06/14 (H) MINUTE(RES)  
 03/10/14 (H) RES RPT 6DP  
 03/10/14 (H) DP: JOHNSON, P.WILSON, OLSON, TARR,  
 SEATON, HAWKER  
 03/19/14 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
 03/19/14 (H) Heard & Held  
 03/19/14 (H) MINUTE(FIN)  
 04/09/14 (H) FIN AT 6:00 PM HOUSE FINANCE 519  
 04/09/14 (H) Heard & Held  
 04/09/14 (H) MINUTE(FIN)  
 04/11/14 (H) FIN AT 6:30 PM HOUSE FINANCE 519  
 04/11/14 (H) Heard & Held  
 04/11/14 (H) MINUTE(FIN)  
 04/13/14 (H) FIN AT 1:00 PM HOUSE FINANCE 519  
 04/13/14 (H) <Bill Hearing Canceled>  
 04/14/14 (H) FIN AT 8:30 AM HOUSE FINANCE 519  
 04/14/14 (H) Moved CSHB 287(FIN) Out of Committee  
 04/14/14 (H) MINUTE(FIN)  
 04/15/14 (H) FIN RPT CS(FIN) NT 2DP 6NR 3AM  
 04/15/14 (H) DP: T.WILSON, THOMPSON  
 04/15/14 (H) NR: MUNOZ, NEUMAN, EDGMON, HOLMES,  
 STOLTZE, AUSTERMAN  
 04/15/14 (H) AM: GUTTENBERG, GARA, COSTELLO  
 04/16/14 (H) RLS AT 9:00 AM CAPITOL 120

**WITNESS REGISTER**

AMY SALTZMAN, Staff

Senator Lesil McGuire  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 200 on behalf of the sponsor.

DARWIN PETERSON, Staff  
Senator Bert Stedman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented SB 201 on behalf of the sponsor.

ROD ARNO, Executive Director  
Alaska Outdoor Council  
Anchorage, Alaska

**POSITION STATEMENT:** Testified that AOC doesn't oppose CSSB 201(JUD), but expressed concerns about it.

AL BARRETTE  
Fairbanks, Alaska

**POSITION STATEMENT:** Expressed concerns with CSSB 201(JUD).

TOM WRIGHT, Staff  
House Majority Office  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** On behalf of Representative Chenault, explained Amendment 1 to HB 287.

JOE BALASH, Commissioner  
Department of Natural Resources  
Juneau, Alaska

**POSITION STATEMENT:** During hearing of HB 287, answered questions.

#### **ACTION NARRATIVE**

[9:03:27 AM](#)

**CHAIR CRAIG JOHNSON** called the House Rules Standing Committee meeting to order at 9:03 a.m. Representatives Chenault, Hawker, Keller, Olson, Gruenberg, and Johnson were present at the call to order. Representative Herron arrived as the meeting was in progress.

#### **SB 200-WRONGFUL DEATH OF AN UNBORN CHILD**

9:04:01 AM

CHAIR JOHNSON announced that the first order of business would be SENATE BILL NO. 200, "An Act establishing a right of action for the death of an unborn child in certain circumstances."

9:04:22 AM

REPRESENTATIVE OLSON moved to adopt the proposed House committee substitute (HCS) for SB 200, Version 28-LS1382\U, Wallace, 4/11/4, as the working document.

CHAIR JOHNSON objected for discussion purposes.

9:04:41 AM

AMY SALTZMAN, Staff, Senator Lesil McGuire, Alaska State Legislature, speaking on behalf of the sponsor, Senator McGuire, paraphrased from the following written sponsor statement [original punctuation provided]:

There is no loss more devastating than the loss of a child, no matter the child's age. Currently Alaskan families have no civil recourse when suffering the loss of an unborn child through the unlawful or negligent actions of another person. Senate Bill 200, also known as "Jackson's Law" is a long overdue response to the heartbreaking stories of families who have suffered such a loss.

In 2006 a law was passed to change the criminal liability for the death of an unborn child. That law established that the unborn can be victims of murder, manslaughter and criminally negligent homicide in a criminal court. Jackson's Law would mirror that law, allowing Alaskan families and parents the same civil recognition of their loss.

Alaska is one of only ten states that do not allow the parents of an unborn victim to seek accountability or damages from a guilty party. Although no compensation could ever account for the loss of parents and families, this bill will provide families with recognition and a course for healing.

9:05:41 AM

CHAIR JOHNSON inquired as to the differences between SB 200 and the proposed committee substitute, HCS SB 200, Version U.

9:06:00 AM

MS. SALTZMAN explained that it came to the sponsor's attention that in some civil cases there is the ability for families to seek action for the wrongful death of an unborn child using AS 09.15.010 such that the parent or guardian may sue for injuries or death of a child. However, the issue is that the term "unborn" isn't included in that statute, and thus is left to the court's interpretation. Therefore, [SB 200] would clarify that [Jackson's] law exists and will be available for cases going forward. The changes embodied in Version U reflect that, she said. She then pointed out that on page 1, line 1, the title of SB 200 was amended by deleting the language "establishing a right" and inserting "relating". On page 2, lines 5-6, subsection (c) was inserted; subsection (c) clarifies that if another action was sought, this law is separate. On page 2, lines 10-13, a new section was inserted to clarify that this legislation applies to cases that occur on or after the effective date not existing cases.

9:08:06 AM

REPRESENTATIVE GRUENBERG noted that this legislation is similar to HB 258 heard in the House Judiciary Standing Committee. He characterized the changes as good. However, he recalled that the Wrongful Death Act, AS 09.15.015, refers to "parent or guardian" but a "guardian" doesn't apply to an unborn child. Therefore, he inquired as to what would happen in a case in which the father, the pregnant mother, and fetus are killed. Per Megan Wallace, Attorney, Legal Services, Legislative Legal and Research, the survival statute, AS 09.55.570, provides that if someone doesn't survive, then a personal representative is appointed. Therefore, if the parents died in the same action as the unborn child, any claim that could've been maintained by the parent would survive and could be brought by the personal representative. He also recalled that the judge in the case of Mace v. Jung, 210 F.Supp 706 (U.S. District Court Alaska 1962), in which there was a motion to dismiss for the death of a nonviable unborn child, adopted the rule and applied that an action could not be maintained for a nonviable unborn child. This proposed law will effectively reverse that case, he pointed out. Representative Gruenberg related his support for SB 200.

9:11:23 AM

CHAIR JOHNSON removed his objection. There being no further objection, Version U was before the committee.

[9:11:39 AM](#)

CHAIR JOHNSON opened public testimony and upon determining that no one wished to testify, closed public testimony.

[9:11:57 AM](#)

REPRESENTATIVE OLSON moved to report the proposed House committee substitute (HCS) for SB 200, Version 28-LS1382\U, Wallace, 4/11/4, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS SB 200(RLS) was reported from the House Rules Standing Committee and is available for calendaring.

**SB 201-NOTICE AGAINST TRESPASS**

[9:12:12 AM](#)

CHAIR JOHNSON announced that the next order of business would be CS FOR SENATE BILL NO. 201(JUD), "An Act relating to the crime of trespass."

[9:12:45 AM](#)

DARWIN PETERSON, Staff, Senator Bert Stedman, Alaska State Legislature, speaking on behalf of the sponsor, Senator Stedman, paraphrased from the following written sponsor statement [original punctuation provided]:

Current state law gives a person who enters or remains on unimproved or apparently unused land the privilege to do so unless notice against trespass is given. There are two ways notice against trespass can be given: 1)if the landowner or an authorized representative personally communicates to the person that trespass is prohibited; or 2)if "no trespass" signs are posted. AS 11.46.350(c) specifies the requirements for posting "no trespass" signs which are:

- o It must be printed in English
- o It must be at least 144 square inches in size;

- o It must contain the name and address of the landlord or an authorized representative;
- o It must be posted at every roadway or access point to the property;
- o In the case of an island, it must be posted on the perimeter of each cardinal point of the island;
- o Furthermore, the sign must state what specific activities are prohibited such as "no hunting", "no fishing", or "no digging."

[SB] 201 would repeal AS 11.46.350(c) from statute, thereby removing the excessive requirements for posting numerous no trespassing signs in order to protect access to private property. If we don't do this, intentional trespassers will continue to use this section of statute as a legal defense to enter and remain on private land. All they have to do is find an access point that isn't posted.

Many Alaskans own private property in remote locations with severe weather. No trespassing signs can be blown down, removed by vandals, or covered by snow. The lack of visible signage at every access point to your property should not be a legitimate excuse for trespassers. It should be the responsibility of the individual to find out beforehand if the property they want to use is public or private.

This won't result in a flood of criminal trespass charges against the average citizen who is out for a hike or wanders across someone's private land. In the 1987 case of Johnson v. State, the court established a prerequisite for conviction for the offense of criminal trespass. The state is obligated to prove beyond a reasonable doubt that the defendant knowingly remained on the premises after personally being ordered to leave. Finally, this won't change the legal right of a person to use private property in an emergency. AS 11.46.340 provides an affirmative defense against prosecution if someone enters and uses private property in the case of immediate and dire need.

[9:15:15 AM](#)

CHAIR JOHNSON opened public testimony on SB 201.

[9:15:40 AM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council, began by noting that the Alaska Outdoor Council (AOC) represents about 48 clubs and 10,000 Alaskans. Mr. Arno related his appreciation of the timeliness of this legislation since at least 12 percent of the state is private property much of which is undeveloped and Alaska Native Claims Settlement Act (ANCSA) land that has been transferred. Although the AOC does support private property rights, he expressed concern with having the availability of adequate mapping of what land is state, public domain land from the Department of Natural Resources (DNR). He suggested that at this point the state would be unable to provide coordinates for state public land to Alaskans. Mr. Arno said that at this point AOC doesn't oppose this legislation, but would like concerns addressed later.

[9:17:35 AM](#)

AL BARRETTE echoed Mr. Arno's suggestion that the state begin mapping the state lands and make that information available for public technologies. He explained that without the boundaries, the currently available technologies won't work. He then related the following unintended consequences of posting or not posting property. In July 2009, he was dipnetting on the Chitna River and was approached by land officers of the local [Native] corporation who claimed he was trespassing on their property and demanded a \$20 fine. He paid the \$20 fine with the stipulation that he didn't believe he was trespassing and would research the matter. After researching the state maps, he determined he wasn't on the [Native] corporation's land. However, it took until December 1, 2009, to be reimbursed the \$20 fine that was collected. The situation illustrates that the trespassing issue can go both ways in terms of claiming what is or is not private property. Mr. Barrette then noted that he uses a lot of the R.S. 2477 rights-of-way, which aren't mapped or surveyed. The aforementioned could result in a troublesome situation in determining whether one is trespassing on private property or not. He encouraged the committee to approach this legislation cautiously as there are many pitfalls to it.

[9:19:55 AM](#)

CHAIR JOHNSON, upon determining no one else wished to testify, closed public testimony on SB 201.

[9:20:16 AM](#)

REPRESENTATIVE KELLER mentioned that the House Judiciary Standing Committee heard the companion legislation and came to the same conclusion: that although the legislation is not a perfect solution, it is good legislation. He stated support for CSSB 201(JUD).

[9:20:56 AM](#)

REPRESENTATIVE GRUENBERG pointed out that the companion legislation to SB 201 is HB 375, both of which - in their original forms - repealed subsection AS 11.46.350(b). However, both SB 201 and HB 375 were amended to not repeal AS 11.46.350(b).

[9:22:01 AM](#)

REPRESENTATIVE OLSON moved to report SB 201 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, SB 201 was reported from the House Rules Standing Committee.

[9:22:21 AM](#)

The committee took an at-ease from 9:22 a.m. to 9:24 a.m.

[9:24:23 AM](#)

REPRESENTATIVE OLSON moved that the committee rescind its action in reporting SB 201 from the House Rules Standing Committee. There being no objection, CSSB 201(JUD) was before the committee.

[9:24:37 AM](#)

REPRESENTATIVE OLSON then moved to report CSSB 201(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 201(JUD) was reported from the House Rules Standing Committee and is available for calendaring.

**HB 287-APPROVE TESORO ROYALTY OIL SALE**

[9:24:58 AM](#)

CHAIR JOHNSON announced that the final order of business would be HOUSE BILL NO. 287, "An Act approving and ratifying the sale of royalty oil by the State of Alaska to Tesoro Corporation and Tesoro Refining and Marketing Company LLC; and providing for an effective date." [Before the committee was CSHB 287(FIN).]

[9:25:05 AM](#)

REPRESENTATIVE CHENAULT moved that the committee adopt Amendment 1, 28-GH2862\N.2, Nauman, 4/15/14, which read:

Page 1, line 3, following "**refineries**":  
Insert "**and hydrocarbon processing facilities**"

Page 3, line 10, following "**refinery**":  
Insert "**or hydrocarbon processing facility**"

Page 3, line 11, following "refinery":  
Insert "or hydrocarbon processing facility"

Page 3, line 12, following "products":  
Insert "or processed hydrocarbon products"

Page 3, line 18, following "refinery":  
Insert "or hydrocarbon processing facility"

Page 4, following line 14:  
Insert a new paragraph to read:  
"(1) "processed hydrocarbon products" means separate marketable elements, compounds, or mixtures of oil or natural gas in a liquid or gaseous form, including gasoline, diesel, jet fuel, gas, oil, heating oil, kerosene, ammonia, and urea;"

Renumber the following paragraphs accordingly.

Page 4, line 18:  
Delete "or petroleum-based feedstock"  
Insert ", petroleum-based feedstock, or processed hydrocarbon products"

CHAIR JOHNSON objected.

[9:25:22 AM](#)

TOM WRIGHT, Staff, House Majority Office, Alaska State Legislature, explained that Amendment 1 would include Agrium

Plant in terms of the tax credits and any other credits included in the legislation. Currently, Agrium is considering inspection, assessment, and possible renovation of the existing facility. The aforementioned is a \$200 million project that would require a temporary workforce of about 440 workers and about \$75 million in direct labor income over the two-year rehab. The hydrocarbon processing facility would include the Agrium Plant. Amendment 1 also changes the definition of "processed hydrocarbon products" to include ammonia and urea.

[9:26:39 AM](#)

CHAIR JOHNSON, upon determining no one wished to testify, closed public testimony on HB 287.

[9:26:58 AM](#)

CHAIR JOHNSON removed his objection. There being no further objection, Amendment 1 was adopted.

[9:27:18 AM](#)

REPRESENTATIVE HAWKER requested that as this legislation moves forward through the Senate that the agencies, particularly the Department of Revenue (DOR) thoroughly review the tax credit provisions in order to ensure they are the most cost efficient and effective to achieve the desired outcome. He further requested the DOR and the Department of Natural Resources review the "qualified infrastructure expenditure" definition to ensure it's clear, concise, and achieves the desired outcome. Since DOR, according to the fiscal note, doesn't intend on adopting regulations as a result of the passage of HB 287, the statute has to be very clear and understandable.

[9:29:13 AM](#)

JOE BALASH, Commissioner, Department of Natural Resources, ensured the committee that DNR will get DOR to review the definition. He then thanked Representative Chenault for Amendment 1 since DNR, in principle, supports the intention as it's important to grow the gas-demand side in the Cook Inlet Basin as it will drive exploration and development dollars. He then committed to reviewing the language.

[9:30:30 AM](#)

REPRESENTATIVE OLSON moved to report CSHB 287(FIN), as amended, out of committee with individual recommendations and the forthcoming fiscal notes. There being no objection, CSHB 287(RLS) was reported from the House Rules Standing Committee and is available for calendaring.

[9:31:12 AM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Rules Standing Committee meeting was adjourned at 9:31 a.m.