

**ALASKA STATE LEGISLATURE**  
**SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

April 9, 2014

1:32 p.m.

**MEMBERS PRESENT**

Senator Bert Stedman, Chair  
Senator Peter Micciche, Vice Chair  
Senator Johnny Ellis

**MEMBERS ABSENT**

Senator Kevin Meyer  
Senator Pete Kelly

**COMMITTEE CALENDAR**

SENATE BILL NO. 209

"An Act prohibiting smoking in certain locations; and providing for an effective date."

- MOVED CSSB 209(HSS) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 134(HSS)

"An Act requiring Medicaid payment for medication compliance packaging, delivery, and dispensing services of a prescription for specified recipients; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

CS FOR HOUSE CONCURRENT RESOLUTION NO. 19(HSS)

Supporting Recover Alaska in its efforts to reduce excessive alcohol consumption and its effects.

- MOVED CSHCR 19(HSS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 209

SHORT TITLE: REGULATION OF SMOKING

SPONSOR(S): SENATOR(S) MICCICHE

02/26/14	(S)	READ THE FIRST TIME - REFERRALS
02/26/14	(S)	STA, HSS, FIN
04/03/14	(S)	STA AT 9:00 AM BUTROVICH 205
04/03/14	(S)	Moved CSSB 209(STA) Out of Committee

04/03/14 (S) MINUTE(STA)  
 04/04/14 (S) STA RPT CS 1DP 2AM NEW TITLE  
 04/04/14 (S) DP: WIELECHOWSKI  
 04/04/14 (S) AM: DYSON, GIESSEL  
 04/07/14 (S) HSS AT 1:30 PM BUTROVICH 205  
 04/07/14 (S) -- MEETING CANCELED --  
 04/09/14 (S) HSS AT 1:30 PM BUTROVICH 205

BILL: HCR 19

SHORT TITLE: SUPPORTING EFFORTS OF RECOVER ALASKA  
 SPONSOR(S): REPRESENTATIVE(S) HERRON

02/21/14 (H) READ THE FIRST TIME - REFERRALS  
 02/21/14 (H) HSS  
 03/13/14 (H) HSS AT 3:00 PM CAPITOL 106  
 03/13/14 (H) Scheduled But Not Heard  
 03/14/14 (H) HSS AT 8:00 AM CAPITOL 106  
 03/14/14 (H) Moved CSHCR 19(HSS) Out of Committee  
 03/14/14 (H) MINUTE(HSS)  
 03/17/14 (H) HSS RPT CS(HSS) NT 6DP  
 03/17/14 (H) DP: REINBOLD, PRUITT, KELLER, NAGEAK,  
 TARR, HIGGINS  
 04/01/14 (H) TRANSMITTED TO (S)  
 04/01/14 (H) VERSION: CSHCR 19(HSS)  
 04/02/14 (S) READ THE FIRST TIME - REFERRALS  
 04/02/14 (S) HSS  
 04/07/14 (S) HSS AT 1:30 PM BUTROVICH 205  
 04/07/14 (S) -- MEETING CANCELED --  
 04/09/14 (S) HSS AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

LARRY HACKENMILLER, Secretary/Treasurer  
 CHARR  
 Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

SHALONDA RILEY, representing herself  
 Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

BETTY MACTAVISH, representing herself  
 Kodiak, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

GEORGE CATTER, representing himself  
 Kodiak, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

CARMEN LUNDE, Director  
Kodiak-CHARR  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

ROBIN MINARD, Director of Public Affairs  
Mat-Su Health Foundation  
Wasilla, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

ANDREA THOMAS, representing herself  
Sitka, Alaska

**POSITION STATEMENT:** Testified in favor of SB 209.

RYAN KAUFFMAN, representing himself  
Sitka, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

MATT WAGGONER, Owner  
Fatboy Vapors Alaska, LLC  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

DALE FOX, President  
Alaska CHARR  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

ANGELO REALE, Owner  
Reale Vapes  
Wasilla, Alaska,

**POSITION STATEMENT:** Testified in opposition to SB 209.

JENNIE OLENDORFF, representing herself  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

DANIEL LYNCH, representing herself  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

GARY SUPERMAN, Owner  
Hunger Hut Bar/Motel/Liquor Store  
Nikiski, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

PATRICIA PATTERSON, Owner  
Lucky Raven Tobacco  
Soldotna, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

CHRYSTAL SCHOENROCK, Bar Owner  
Nikiski, Alaska,

**POSITION STATEMENT:** Testified in opposition to SB 209.

JOHN BINDER, Division Operations Manager  
Statewide Aviation  
Department of Transportation and Public Facilities  
Anchorage, Alaska

**POSITION STATEMENT:** Recommended adding an exemption for international lounges to SB 209.

MIKE COONS, representing himself  
Palmer, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 209.

GAIL SHEMAN, representing herself  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

MICHAEL PATTERSON, representing himself  
Juneau, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

EMILY NENON, Alaska Government Relations Director  
American Cancer Society  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 209.

DR. BOB URATA, Volunteer  
American Heart Association  
Wrangell, Alaska

**POSITION STATEMENT:** Testified in support of SB 209 and the inclusion of e-cigarettes, but against the opt-out provision.

JILL LEWIS, Deputy Director  
Alaska Division of Public Health  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions related to the fiscal note for SB 209.

REPRESENTATIVE BOB HERRON  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of HCR 19.

ALEESHA TOWNS-BAIN, Program Officer  
Rasmuson Foundation  
Anchorage, Alaska

**POSITION STATEMENT:** Presented information related to HCR 19 -  
Supporting Efforts of Recover Alaska.

DIANE KAPLAN, President  
Rasmuson Foundation  
Anchorage, Alaska

**POSITION STATEMENT:** Shared information related to Recover  
Alaska.

ELZABTEH RIPLEY, Executive Director  
Mat-Su Health Foundation  
Wasilla, Alaska

**POSITION STATEMENT:** Presented information related to Recover  
Alaska.

JEFF JESSEE, CEO  
Alaska Mental Health Trust Authority  
Anchorage, Alaska

**POSITION STATEMENT:** Presented information related to Recover  
Alaska.

#### **ACTION NARRATIVE**

[1:32:11 PM](#)

**CHAIR BERT STEDMAN** called the Senate Health and Social Services  
Standing Committee meeting to order at 1:32 p.m. Present at the  
call to order were Senators Micciche, Ellis, and Chair Stedman.

#### **SB 209-REGULATION OF SMOKING**

[1:32:38 PM](#)

CHAIR STEDMAN announced the consideration of SB 209. He said it  
is the first hearing on the bill. The intent is to adopt a  
committee substitute, hear from the sponsor, take public  
testimony, and look to the will of the committee.

[1:33:54 PM](#)

SENATOR ELLIS moved to adopt the CS for SB 209, labeled 28-  
LS1539\P, as the working document.

CHAIR STEDMAN objected for explanation purposes.

SENATOR PETER MICCICHE, sponsor of SB 209, said the only changes in version P were to include a municipality's ability to opt out of the provisions in the bill, to remove airport fuel facilities from the list, and to exempt stand-alone e-cigarette shops.

CHAIR STEDMAN removed his objection. There being no further objection, the motion carried.

SENATOR MICCICHE related that SB 209 protects Alaska workers from the effects of secondhand smoke. He stated that people have the right to smoke except when it interferes with the rights of Alaskan workers. He commented about the repercussions of exposure to secondhand smoke. He said it is a public health issue similar to regulation of safety standards in cars, electrical codes, and child safety car seats.

He said another reason the bill is needed is because it will save money on health care. Third, many communities and boroughs are restricted from passing a local ordinance and they want to level the playing field. He spoke of hundreds of emails in support of the bill versus a few against the bill. Several bar owners who have fought this for years, now support the legislation. He noted that smoking is still allowed in smoke shops and in e-cigarette shops.

He concluded that the bill does not ban smoking; "it asks you to take it outside." It does not require employers to hire or not hire employees because they smoke. It does not prohibit employers from having stronger restrictions. It does not prohibit local governments from adopting stronger restrictions. He recalled when a similar initiative was on the ballot in Anchorage, 72 percent were against it.

1:39:05 PM

SENATOR STEDMAN asked about the sections of the bill.

SENATOR MICCICHE explained that Section 1 creates a new Article 4 within AS 18.35 describing where smoking is prohibited or regulated. Lines 7-14 prohibit smoking in enclosed areas, within or at places of employment, public places, transportation facilities, schools, health care facilities, restaurants, bars, hotels, motels, child care locations, marine vessels operating as a shore-based fisheries business, and public meeting rooms.

He summarized that the bill exempts things that make sense. He said page 2 describes other areas where smoking is prohibited, included outdoor arenas, stadiums, or amphitheaters, areas at a public school or playgrounds, and within a certain distance of health care facilities, bars and other buildings. Page 2 also lists five exceptions to the prohibitions: private residences, unless used for adult or child care, or if located within a health care facility or within a hotel or motel, marine vessels when the vessel is operating as a work place for commercial or sport charter fishing, vehicles used exclusively by one employee, and stand-alone retail tobacco stores and e-cigarette stores.

He explained that page 3 describes obligations of employers, owners, and operators to post no smoking signs within places or vehicles where smoking is prohibited. It also requires the Department of Health and Social Services (DHSS) to furnish signs upon request.

He related that page 4 re-enacts existing law to require the commissioner of DHSS to develop and maintain a procedure for processing and investigating reports of violations. The expectation is that it will be self-policing. The experience around the state has been very successful. There have been no violations reported in Anchorage after seven years.

CHAIR STEDMAN noted the seven fiscal notes: one indeterminate fiscal note from DHSS; four fiscal notes from DOTPF totaling \$23,000 in FY 15, one fiscal note for international airports for \$8,500 for signs, one for the Alaska Marine Highway System for \$2,400 for signs, one for transportation management and security for \$10,600 for signs, one for the state equipment fleet for \$1,500 for signs; a zero fiscal note from the Department of Administration; and a zero fiscal note from the Department of Environmental Conservation.

[1:43:28 PM](#)

SENATOR MICCICHE said he believes that those expenses would be lower.

CHAIR STEDMAN said finances would be taken up by the next committee.

CHAIR STEDMAN opened public testimony.

[1:44:23 PM](#)

LARRY HACKENMILLER, Secretary/Treasurer, I-CHARR, Fairbanks, Alaska, testified in opposition to SB 209. He said OSHA maintains that smoking is not hazardous in the workplace. He said the risk of secondhand smoke is non-existent. He opposed the amendment that states the bill would protect the general public. The bill supersedes constitutional rights to smoke in a private resident. He said business owners should have the right to allow smoking.

[1:49:18 PM](#)

SHALONDA RILEY, representing herself, Fairbanks, Alaska, testified in support of SB 209. She said she believes she has the right to not be exposed to secondhand smoke. She said there are health issues related to someone else's smoke.

[1:51:58 PM](#)

BETTY MACTAVISH, representing herself, Kodiak, Alaska, testified in support of SB 209. She said she worked in a bar and now has the lungs of a smoker due to secondhand smoke. She wanted the same standard for secondhand smoke for rural Alaskans.

[1:53:52 PM](#)

GEORGE CATTER, representing himself, Kodiak, Alaska, testified in opposition to SB 209. He maintained that the bill is full of penalties for private property. He said it infringes on his rights as a bar owner.

[1:55:58 PM](#)

CARMEN LUNDE, Director, Kodiak - CHARR, Kodiak, Alaska, testified in opposition to SB 209. She suggested that smokers be allowed the right to smoke. In 1993 EPA published a ruling, was taken to court, and found to be flawed. Banning smoking infringes on private property rights.

[1:58:27 PM](#)

ROBIN MINARD, Director of Public Affairs, Mat-Su Health Foundation, Wasilla, Alaska, testified in support of SB 209. She related that smoking leads to health concerns. She noted that e-cigarettes should also not be used in public places.

[2:00:00 PM](#)

ANDREA THOMAS, representing herself, Sitka, Alaska, testified in favor of SB 209. She said she agrees e-cigarettes should also be banned in public places. She said she has seen the results of smoking. She stated the bill will save money on medical costs.

[2:02:05 PM](#)

RYAN KAUFFMAN, representing himself, Sitka, Alaska, testified in support of SB 209. He said he does not support the option for a local opt out - the provisions should be true for all communities. He concluded that the bill will have positive financial effects.

[2:03:24 PM](#)

MATT WAGGONER, Owner, Fatboy Vapors Alaska, LLC, Anchorage, Alaska, testified in opposition to SB 209. He was especially opposed to the inclusion of e-cigarettes in the bill. He quoted studies that show e-cigarettes do not have the same second-hand effects and they are an effective means of quitting smoking.

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DALE FOX, President, Alaska CHARR, Anchorage, Alaska, testified in opposition to SB 209. He said bars should be exempted from not being able to smoke. People should be able to make their own decisions about smoking.

[2:08:56 PM](#)

ANGELO REALE, Owner, Reale Vapes, Wasilla, Alaska, testified in opposition to SB 209. He objected to the inclusion of e-cigarettes in the bill. He said the science quoted is not accurate.

[2:10:47 PM](#)

JENNIE OLENDORFF, representing herself, Soldotna, Alaska, testified in support of SB 209. She related her experience of working in a smoke-filled office. It is a bill that protects fundamental rights to be in a smoke-free workplace.

[2:12:39 PM](#)

DANIEL LYNCH, representing herself, Soldotna, Alaska, testified in opposition to SB 209. He said the bill is about freedom; freedom for the right to smoke. All of his previous employees were able to make their own rules.

[2:14:51 PM](#)

GARY SUPERMAN, Owner, Hunger Hut Bar/Motel/Liquor Store Nikiski, Alaska, testified in opposition to SB 209. He said he did not think that the legislature had the right to tell him that customers cannot smoke in his bar. He said it should be up to the business owner to decide.

[2:17:18 PM](#)

PATRICIA PATTERSON, Owner, Lucky Raven Tobacco, Soldotna, Alaska, testified in opposition to SB 209. She thanked the

sponsor for the provision to include smoking in a tobacco store. She said she knows she will be audited more due to these changes. She said there is no research on e-cigarettes.

[2:19:21 PM](#)

CHRISTAL SCHOENROCK, Bar Owner, Nikiski, Alaska, testified in opposition to SB 209. She maintained that smoking should be allowed in bars in small towns. She said it is about rights.

[2:21:49 PM](#)

JOHN BINDER, Division Operations Manager, Statewide Aviation, Department of Transportation and Public Facilities, Anchorage, Alaska, recommended adding an exemption for international lounges to SB 209.

SENATOR MICCICHE suggested that this could have been discussed earlier.

[2:25:09 PM](#)

MIKE COONS, representing himself, Palmer, Alaska, testified in opposition to SB 209. He maintained that this bill is about the sin tax, which will be the next step.

[2:28:13 PM](#)

GAIL SHEMAN, representing herself, Anchorage, Alaska, testified in support of SB 209. She shared that she has worked as a bartender for over 20 years before there was any protection for people working in this industry. She now has COPD from secondhand smoke.

[2:29:24 PM](#)

MICHAEL PATTERSON, representing himself, Juneau, Alaska, testified in support of SB 209. He shared his story as a former smoker. He said he changed his opinion now that he is dying of COPD. He said that he has also watched a child die of secondhand smoke. He stressed that it is very hard to avoid secondhand smoke. He stated that science has proved that e-cigarettes do cause cancer. He emphasized that it is necessary to have the protection provided by this bill.

EMILY NENON, Alaska Government Relations Director, American Cancer Society, Anchorage, Alaska, testified in support of SB 209. She said she has been working on a smoke-free workplace for 13 years. She listed partnerships with the American Cancer Society: the American Heart Association, the American Lung Association, the Alaska Native Health Board, AARP. She referred to letters of support in members' packets. She noted that over

400 businesses and organizations around the state have signed resolutions of support for a statewide smoke-free indoor work places policy.

She discussed the economic benefits of smoke-free working establishments. She said implementation of smoke-free laws will be subtle, will be a matter of public education, and will be self-enforcing.

2:37:36 PM

DR. BOB URATA, Volunteer, American Heart Association, Wrangell, Alaska, testified in support of SB 209 and the inclusion of e-cigarettes, but against the opt-out provision. He shared statistics about cigarette smoking being the leading cause of preventable disease and cause of death in the United States and in Alaska. In Alaska it is the number one and number two cause of death. He said about 20 percent of Americans still smoke and it is estimated that 88 million non-smokers are exposed to second-hand smoke. It kills nearly 50,000 Americans every year. Smoke-free workplace laws are an important part in improving the health of this country and this state and in reducing death and disabilities.

He related that it is estimated in the next 20 years, the cost of treating cardiovascular disease in America will increase threefold. It now cost about \$3 billion.

He reported in Pueblo, Colorado, the smoke-free ordinance found a 20 percent gain in bar and restaurant sales tax from increased sales and 27 percent fewer heart attacks. He noted the immediate health benefits of the ordinance.

He opined that e-cigarettes should be included in the bill because the safety of them is unknown. In a study in 2009, the FDA found some cancer-causing substances and nicotine in some e-cigarettes and it will be coming out with a statement soon. He suggested, first, do no harm. He described what would have happened if cigarettes had been adequately studied a long time ago.

JILL LEWIS, Deputy Director, Alaska Division of Public Health, Department of Health and Social Services (DHSS), Juneau, Alaska, answered questions related to the fiscal note for SB 209. She said the division has for some time emphasized the importance of reducing smoking and exposure to second-hand smoke. She said the department submitted an indeterminate fiscal note that reflects different interpretations of the bill. Additional clarity from

the sponsors and the legislature is requested regarding the scope and depth of the role of the department in the implementation of the bill.

She related that the department will be able, as directed by the bill, to provide access to educational programs and printable brochures within current program and budget levels in the Tobacco Prevention and Control Program, and is doing so currently. The bill requires the department to provide signs for each entrance of all public venues, places of employment, buildings, facilities, private businesses, residents, and vehicles statewide in which smoking will be prohibited, if that is requested. The department can create an electronic template available on its website for individuals and entities to access and print for themselves. If the department is required to produce and ship metal signage to businesses in the state, the cost will increase. The department does currently not have the infrastructure and staff to actively process, report, and investigate alleged violations. Passive complaint-driven enforcement would reduce costs.

CHAIR STEDMAN noted the bill has a referral to the Senate Finance Committee next. He suggested that the sponsor work with the department on their suggestions.

SENATOR MICCICHE said clarifications for the department can be worked through.

SENATOR ELLIS moved to report CS for SB 209 from committee with individual recommendations and attached fiscal notes.

CHAIR STEDMAN announced that without objection, CSSB 209(HSS) is reported from the Senate Health and Social Services Standing Committee to the next committee of referral.

[2:45:35 PM](#)

At ease

[2:46:10 PM](#)

CHAIR STEDMAN reconvened the meeting and announced that HB 134 would be heard at a later date.

#### **HCR 19-SUPPORTING EFFORTS OF RECOVER ALASKA**

[2:46:47 PM](#)

CHAIR STEDMAN announced the consideration of HCR 19. [CSHCR 19(HSS) was before the committee.] He said it is the first hearing of the resolution. The intent is to have the sponsor

introduce the resolution, take public testimony, and set it aside.

REPRESENTATIVE BOB HERRON, Alaska State Legislature, Juneau, Alaska, sponsor of HCR 19. He said HCR 19 is a brief resolution that supports the efforts of Recover Alaska. It brings awareness to a group of Alaskans that want to recover, reclaim, and restore the strength of Alaska's families and communities by getting to the root causes of excessive alcohol consumption. He referred to information in members' packets on Recover Alaska partners.

SENATOR ELLIS thanked Recover Alaska and the Rasmuson Foundation for their support. He said he has been involved with Recover Alaska since its inception. He requested the committee's support.

CHAIR STEDMAN noted one zero fiscal note from the Legislature.

[2:48:57 PM](#)

At ease

[2:49:19 PM](#)

ALEESHA TOWNS-BAIN, Program Officer, Rasmuson Foundation, Anchorage, Alaska, presented information related to HCR 19 - Supporting Efforts of Recover Alaska. She began with a video of an alcoholic's story, an investment in partnership with Anchorage Daily News.

[2:53:53 PM](#)

MS. TOWNS-BAIN described what Recover Alaska is; an initiative to identify the root causes of excessive alcohol consumption, a solutions-based program.

[2:54:25 PM](#)

DIANE KAPLAN, President, Rasmuson Foundation, Anchorage, Alaska, shared information related to Recover Alaska. She related the history of Recover Alaska. She said about four years ago, Rasmuson Foundation convened a broad-based group of people to discuss ways to combat the root causes of alcohol abuse in Alaska. They decided to put the focus on building solutions at a high decision-maker level and assembled a group of people they felt could have an impact. Early on, colleagues such as Robert Wood Johnson Foundation were brought in. Part of the secret of success was a wide variety of partners; representatives from judicial, health providers, and other non-profits serving on the steering committee.

ELZABTEH RIPLEY, Executive Director, Mat-Su Health Foundation, Wasilla, Alaska, presented information related to Recover Alaska. She spoke as a funding partner of Recover Alaska. She said the results of the Healthy Alaskans 2020 Survey showed that alcohol use and abuse is the top health issue important to Alaskans. It is a pervasive problem in the state and uses many resources without seeing positive impacts. She noted the financial impact of alcohol on Alaska's economy of \$1.2 billion.

[2:57:24 PM](#)

JEFF JESSEE, CEO, Alaska Mental Health Trust Authority, Anchorage, Alaska, presented information related to Recover Alaska. He mentioned two other efforts Recover Alaska is undertaking; working in conjunction with the Alcohol Beverage Control Board to look at the Title 4 alcohol beverage control statutory framework, and with a social norm campaign around underage drinking around the state. Science is showing that negative ads are not as persuasive to kids as positive ads are.

MS. TOWNS-BAIN reported on places Alaskans can look for help using a referral system in partnership with United Way 211.

[2:58:56 PM](#)

SENATOR ELLIS moved to report CS for HCR 19(HSS) from committee with individual recommendations and attached fiscal note.

CHAIR STEDMAN announced that without objection, CSHCR 19(HSS) is reported from the Senate Health and Social Services Standing Committee to the next committee of referral.

[2:59:49 PM](#)

There being nothing further to come before the committee, Chair Stedman adjourned the Senate Health and Social Services Standing Committee at 2:59 p.m.