

ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

March 4, 2014

1:36 p.m.

MEMBERS PRESENT

Senator Mike Dunleavy, Chair
Senator Peter Micciche, Vice Chair
Senator Donald Olson

MEMBERS ABSENT

Senator Bert Stedman
Senator Johnny Ellis

COMMITTEE CALENDAR

SENATE BILL NO. 166

"An Act relating to nursing and to the Board of Nursing."

- HEARD & HELD

SENATE BILL NO. 167

"An Act relating to the maximum amount of uninsured and underinsured coverage payable under multiple motor vehicle insurance policies issued by the same insurer in the same household."

- HEARD & HELD

SENATE BILL NO. 189

"An Act relating to an exemption from the regulation of construction contractors."

- HEARD & HELD

SENATE BILL NO. 193

"An Act relating to bonds required for contractors."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 166

SHORT TITLE: BOARD OF NURSING; NURSES

SPONSOR(S): SENATOR(S) GIESSEL BY REQUEST

02/07/14 (S) READ THE FIRST TIME - REFERRALS
02/07/14 (S) L&C
03/04/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 167

SHORT TITLE: MULTIPLE VEHICLE INSURANCE POLICIES
SPONSOR(s): SENATOR(s) HUGGINS BY REQUEST

02/10/14 (S) READ THE FIRST TIME - REFERRALS
02/10/14 (S) L&C
03/04/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 189

SHORT TITLE: EXEMPTION: LICENSING OF CONTRACTORS
SPONSOR(s): LABOR & COMMERCE

02/21/14 (S) READ THE FIRST TIME - REFERRALS
02/21/14 (S) L&C
02/25/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/25/14 (S) -- MEETING CANCELED --
03/04/14 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR CATHY GIESSEL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 166.

JANE CONWAY, Staff
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced the CS for SB 166 on behalf of the sponsor.

NANCY SANDERS, PhD, Executive Administrator
Alaska State Board of Nursing
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 166.

LAURA SARCONI, Certified Nurse Midwife
Alaska Advanced Practiced Registered Nurse Alliance
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 166.

JANA SHOCKMAN, President
Alaska State Nurses Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 166.

BETH FARNSTROM, Chair
Alaska State Board of Nursing
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 166.

DON HABEGER, Director
Division of Corporations, Business & Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Voiced concern with a provision in Section 3 of SB 166.

GREY MITCHELL, Assistant Commissioner
Department of Labor and Workforce Development (DOLWD)
Juneau, Alaska

POSITION STATEMENT: Voiced concern with certain aspects of SB 166 and answered questions related to SB 189.

ASHTON COMPTON, Staff
Senator Charlie Huggins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 167 on behalf of the sponsor.

SHELDON WINTERS, Lobbyist
State Farm Insurance
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 167.

KENTON BRINE
Property Casualty Insurance Association
Olympia, Washington

POSITION STATEMENT: Testified in support of SB 167.

STEVE RICCI, Aide
Senate Labor and Commerce Standing Committee
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced SB 189.

AL NAGEL, Mechanical Inspection Manager
Department of Labor and Workforce Development
Anchorage, Alaska,

POSITION STATEMENT: Answered questions and provided information related to SB 189.

ACTION NARRATIVE

[1:36:16 PM](#)

CHAIR MIKE DUNLEAVY called the Senate Labor and Commerce Standing Committee meeting to order at 1:36 p.m. Present at the call to order were Senators Micciche, Olson, and Chair Dunleavy.

SB 166-BOARD OF NURSING; NURSES

[1:37:02 PM](#)

CHAIR DUNLEAVY announced the consideration of SB 166. "An Act relating to nursing and to the Board of Nursing." He noted this was the first hearing and there was a draft committee substitute (CS) that incorporates changes requested by the sponsor.

[1:37:24 PM](#)

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 166, stated that the bill is analogous to a revisor's bill, because it eliminates and updates obsolete statutes from the Board of Nursing. These changes have been on the docket for the Board of Nursing for at least 10 years and the board finally has asked that they be brought forward for correction. She deferred to her staff to discuss the proposed CS.

CHAIR DUNLEAVY asked for a motion to adopt the CS.

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SENATOR MICCICHE moved to adopt the CS for SB 166, labeled 28-LS1010\Y, as the working document.

CHAIR DUNLEAVY objected for discussion purposes.

[1:39:10 PM](#)

JANE CONWAY, Staff, Senator Cathy Giessel, stated that Version Y incorporates two changes. First, it rewrites the whistleblower protection to include both the nurse that delegates a task to another who is not educated to perform the task and the nurse asked to perform the task that they are not educated to perform.

This is found on page 7, beginning on line 28. The second change corrects a reference to the department of labor in the original bill and writes out the full name of the Department of Labor and Workforce Development. This is found on page 8, line 19.

SENATOR OLSON asked for an example of the obsolete statutes that were deleted or rewritten.

SENATOR GIESSEL said the term vocational practical nurse is obsolete and has been changed to licensed practical nurse. The statute referring to a written examination is obsolete because the examination is now computer-based. Recognition of the Canadian licensing examination is obsolete because that exam is no longer accepted by the board. Most of the changes to the statutes are updates other than the whistleblower protection in Section 15 and the qualifications for board membership in Section 5. The latter was updated to add the practical nurse identification and to identify the length of practice to serve on the board. It also creates a designated seat for the advanced nurse practitioner.

SENATOR OLSON asked if a person who has a Canadian nursing license is able to continue to work under that license.

MS. CONWAY said the bill repeals the endorsement for nurses completing the Canadian Nursing Association test.

SENATOR OLSON asked if this applies only to new licensees or also to those who are already working under a Canadian nursing license.

SENATOR GIESSEL deferred to the executive director of the Board of Nursing.

[1:43:48 PM](#)

CHAIR DUNLEAVY asked if the bill does anything that would prevent that from happening.

SENATOR GIESSEL said yes. The bill removes a provision in statute that allows licensed practical nurses who are foreign graduates to get a temporary six-month license prior to taking the National Council Licensure Examination (NCLEX). The reason is that about 42 percent of the foreign licensed nurses who take the NCLEX don't pass it.

SENATOR MICCICHE asked if she had any comment on the requirement for two separate criminal record checks to qualify as a

certified nursing assistant (CNA). It's necessary to get the results from the first test before the second can be submitted, which is very time-consuming. A constituent brought it to his attention that medical facilities are finding it difficult to fill CNA positions because of this requirement.

SENATOR GIESSEL explained that both the federal government and the Board of Nursing require FBI background checks. The federal government requires the check for anyone working in a Medicaid facility and the board requires the check for licensure. The results can't be shared. The federal law also established barrier crimes that limit employment opportunities for certain felonies, but the Board of Nursing doesn't have any barrier crimes to practice at any level of nursing. The board looks at each case individually. She deferred further explanation to the executive administrator of the Board of Nursing.

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CHAIR DUNLEAVY removed his objection. Finding no further objection, Version Y was adopted.

[1:48:37 PM](#)

NANCY SANDERS, PhD, Executive Administrator, Alaska State Board of Nursing, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, introduced herself.

SENATOR MICCICHE asked what could be done to streamline the second background check.

DR. SANDERS replied there isn't a positive answer, because the Board of Nursing can only share the results of their background check with other facilities that are using it as a licensing requirement.

SENATOR MICCICHE asked if she could conceive of separating the CNA requirements from the general nursing requirements since CNAs have a lower level of responsibility and training requirements. He offered his understanding that those positions were the most difficult to retain.

DR. SANDERS replied that has not been the experience of the Board of Nursing. CNAs are intimately involved with the people they care for, including those who are in their homes. In keeping with the mission of the Board of Nursing to protect the public, this is an important licensing category that should have oversight. She also clarified that someone who has passed the

CNA certification examination may practice under a six-month temporary permit while they wait for the results of the second background check.

LAURA SARCONI, Certified Nurse Midwife representing the Alaska Advanced Practiced Registered Nurse Alliance, Anchorage, Alaska, stated support for SB 166. She voiced particular support for paragraph (3) in Section 1 that designates one seat on the Board of Nursing to an advanced nurse practitioner (ANP). That designation contributes positively to the ongoing communication and cooperation between the Board of Nursing and the regulated community of advanced practice nurses, she said.

SENATOR OLSON asked where she practices midwifery.

MS. SARCONI replied she is a fulltime nurse midwife at Southcentral Foundation in Anchorage.

SENATOR OLSON asked if she had ever practiced in rural Alaska.

MS. SARCONI said no.

[1:54:54 PM](#)

JANA SHOCKMAN, President, Alaska Nurses Association (ANA), Anchorage, Alaska, stated support for SB 166, particularly the formal designation of a seat for an advanced practice nurse on the board. The nurses association recognizes that the Board of Nursing has needed these updates for awhile, she said.

[1:55:36 PM](#)

BETH FARNSTROM, Chair, Alaska State Board of Nursing, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, testified in support of SB 166. She said the board has discussed these changes for a number of years and at its January 2014 meeting voted unanimously to work with the legislature on this issue.

[1:56:42 PM](#)

DON HABEGGER, Director, Division of Corporations, Business & Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), raised concern with the provision in Section 3, page 3, lines 14-15, that requires the executive administrator of the board to hold a master's degree in nursing. The most highly qualified RN applicant would be hired, just as when Dr. Nancy Sanders was selected, but it would provide the division more flexibility if the requirement wasn't in statute.

SENATOR OLSON asked how many people in Alaska hold master's degrees in nursing.

MR. HABEGER said he didn't know, but 15,000 nurses are licensed.

SENATOR OLSON asked how many doctor of nursing degrees are held in Alaska.

MR. HABEGER replied he only knew of Dr. Nancy Sanders.

SENATOR MICCICHE commented that the bill has clearly increased the competency of the board and he believes that's a good idea. He said he'd like to hear why the sponsor believes that level of competence is important for the administrative position.

2:01:08 PM

GREY MITCHELL, Assistant Commissioner, Department of Labor and Workforce Development (DOLWD), discussed the department's perspective of SB 166. He said Sections [15 and 16] on pages 7 and 8 would affect the department. The new subsection (d) in Section 16 assigns DOLWD the authority to impose a civil penalty of up to \$10,000 on a person who knowingly violates AS 08.68.279(a). DOLWD has a program to pursue similar protections for workers who bring forward occupational, safety, and health complaints, but the concern is that they wouldn't be able to use their existing investigator because the position is partially funded through the U.S. Department of Labor Occupational Safety and Health Administration (OSHA). However, if these complaints are minimal, as indicated through preliminary discussions with the sponsor, DOLWD may be able to accommodate the costs with existing staff and additional training, he said.

SENATOR OLSON questioned the advantage of having DOLWD investigate these complaints as opposed to the current investigative process.

MR. MITCHELL said he didn't know the current investigation process.

SENATOR OLSON asked if DOLWD views this amendment as an advantage.

MR. MITCHELL opined that it was an issue for the sponsor to address.

SENATOR OLSON asked why he was opposing the amendment.

MR. MITCHELL clarified that he was merely voicing a concern.

CHAIR DUNLEAVY asked if this was an issue that would prevent the bill from moving forward.

MR. MITCHELL said no.

[2:05:23 PM](#)

CHAIR DUNLEAVY asked the sponsor to address the two issues that were raised.

SENATOR GIESSEL addressed the question from Section 3 about the minimum requirement for the executive administrator of the Board of Nursing to hold a master's degree in nursing. She explained that the Board of Nursing regulates about 17,000 licensees or 25 percent of the professional licenses in the state. Because of that large volume, the board delegates to the executive administrator the authority to review license applications and initial complaints to determine whether they rise to the level of an investigation. The executive director has to be fully versed in the practice of nursing at all levels because the Board of Nursing regulates from a high school diploma to a doctoral level.

Addressing the question about the potential pool of applicants, she explained that an advanced nurse practitioner has to have, at minimum, a master's degree in nursing. In this state there are about 500 nurses who hold master's degrees and a rising number are doctorially prepared, so there is an adequate pool of applicants, she said.

SENATOR MICCICHE asked if an RN program was typically four or five years.

SENATOR GIESSEL replied there is encouragement to go to a four-year baccalaureate degree, but currently it can be either a two or four year degree.

SENATOR MICCICHE asked if it's a one-year program to transition from an RN four-year degree to a master's degree in nursing.

SENATOR GIESSEL confirmed there are bridge programs like that; the University of Alaska, Anchorage program is a four-year baccalaureate and a two-year master's degree.

CHAIR DUNLEAVY summarized that the bill increases the qualifications for the executive administrator position and the sponsor doesn't believe it will be difficult to find qualified candidates.

SENATOR GIESSEL said that having been in an interview process twice, she didn't believe there would be a problem.

SENATOR MICCICHE stated support for the requirement for the executive administrator to have a master's degree at a minimum.

CHAIR DUNLEAVY asked the sponsor to comment on the second issue that was raised.

SENATOR GIESSEL deferred to the executive administrator. She worked with the Department of Law to write the section and they encouraged assigning the authority to the Department of Labor and Workforce Development (DOLWD). She suggested the committee also hear from Ms. Shockman because the Alaska Nurse's Association strongly endorsed this provision.

CHAIR DUNLEAVY asked Ms. Shockman to comment on the provision on page 8, lines 19-21, related to DOLWD.

MS. SHOCKMAN said the ANA strongly supports the whistleblower protection language in the bill. She provided an example to illustrate why this is important. She explained that she is a very experienced intensive care nurse with specialty certifications in critical care and cardiac surgery. If her employer were to decide, because of short-staffing, that she should work a shift in obstetrics, it might be dangerous to a patient. Her only training in obstetrics was generalized in nursing school 17 years ago. The language in this section would protect her from punitive or retaliatory actions by the employer if she declined the assignment due to safety concerns. The ANA believes there should be a penalty in a civil action if the employer knowingly violates this and attempts to force a nurse to take an assignment for which they are not trained.

SENATOR OLSON questioned how this will affect nurses' attitudes in smaller hospitals. There may be only one trained RN on duty with licensed practical nurses (LPNs).

MS. SHOCKMAN directed attention to page 8, line 13. It says the nurse must report to the board the improper attempt to assign or delegate the task, and the board will determine whether or not

the assignment was improper. It's not a matter of a nurse not wanting to perform; it's a matter of public safety, she said.

SENATOR OLSON questioned what happens if there's nobody to respond.

MS. SHOCKMAN said nursing occurs in a variety of environments, and in smaller hospitals nurses tend to be less specialized.

SENATOR OLSON said his concern relates to 10-12 bed facilities in rural Alaska that have nursing shortages. It's a disservice to the nursing administration if a nurse declines an assignment because he/she didn't feel like doing it, he said.

[2:16:09 PM](#)

SENATOR GIESSEL acknowledged that he made a strong point then directed attention to paragraph (1)(A), (B), (C), and (D) in Section 15. These four sidebars make it clear that a nurse isn't declining an assignment because they didn't feel like doing it.

SENATOR OLSON said his issue is that the director of nursing in a rural facility may be hesitant to assign a task if they're worried about a whistleblower complaint and potentially a \$10,000 civil penalty.

SENATOR GIESSEL said it's a valid concern, but nurses in small hospitals are more generalists and the board will look at the complaint before it goes forward to a penalty.

SENATOR OLSON voiced concern that the board might not know much about practicing in rural Alaska.

SENATOR GIESSEL reviewed the membership of the Board of Nursing in Section 1 to allay his concerns. She stressed that the board is very diverse and would look at a whistleblower complaint from a rural community with an understanding of what it's like to practice there.

[2:25:09 PM](#)

SENATOR MICCICHE pointed out that the whistleblower section was repealed and reenacted to give it more teeth.

SENATOR GIESSEL agreed.

SENATOR OLSON asked the sponsor to list the various categories of licenses.

SENATOR GIESSEL explained that there are certified nursing aides (CNA), licensed practical nurses (LPN), registered nurses (RN), and advanced nurse practitioners (ANP).

CHAIR DUNLEAVY held SB 166 in committee for further consideration. Public testimony was open.

[2:27:35 PM](#)

At ease

SB 167-MULTIPLE VEHICLE INSURANCE POLICIES

[2:29:43 PM](#)

CHAIR DUNLEAVY reconvened the meeting and announced the consideration of SB 167. "An Act relating to the maximum amount of uninsured and underinsured coverage payable under multiple motor vehicle insurance policies issued by the same insurer in the same household."

ASHTON COMPTON, Staff, Senator Charlie Huggins, introduced SB 167 reading the following sponsor statement: [Original punctuation provided.]

SB 167 corrects an unintended loophole in Alaska statutes that is harmful to consumers of Uninsured/Underinsured Motorist ("U/UIM") insurance.

Alaska, like most states, restricts the combining or "stacking" of multiple U/UIM coverages. When a consumer insures more than one vehicle with the same insurer, the U/UIM coverages are not combined or "stacked." Instead the coverage available in an accident is the highest coverage on any one of the vehicles. That limitation makes the coverage more affordable, allows more consumer choice and enhances predictability.

Our Legislature repeatedly made it clear that the limitation on stacking applies regardless of whether the vehicles are insured under one policy, or through separate policies from the same insurer. Unfortunately language adopted in 1990 as later applied created an unintended loophole that does not consistently accomplish the stated purpose. Under the language, if the consumer insures the vehicles under separate policies from the same insurer, stacking is precluded only for the "named insured" - ironically allowing all

the other coverages to be stacked for all other persons. There is no logical reason for this discrepancy. It needlessly forces the consumer to pay for "stackable" coverage that is not desired.

With a simple change in the statutory language SB 167 corrects this inconsistency and accomplishes the following:

- Consumers will not be forced to pay for coverage they do not want or need. Insurance rates for many consumers will be positively influenced.
- Consumer choice and predictability will be improved because consumers can choose a predictable level of coverage they deem appropriate.
- Consumers who choose to insure their vehicles in separate policies will have the same options as, and be treated the same as, consumers who insure their vehicles under a single policy, which was the stated legislative intent in 1984 and 1990.

[2:32:07 PM](#)

SHELDON WINTERS, Lobbyist, State Farm Insurance, Juneau, Alaska, stated that SB 167 is about enforcing and consistently applying the public policy prohibiting stacking that was adopted in 1984 and amended in 1990. He explained that an unintended loophole in the 1990 legislation was that it provided protection against stacking for multicar policies but only partial protection for single car policies. SB 167 corrects the discrepancy that makes consumers pay more and the Division of Insurance approved the language.

[2:40:34 PM](#)

KENTON BRINE, Property Casualty Insurance Association, Olympia, Washington, voiced support for the SB 167 and offered to answer questions.

[2:41:13 PM](#)

CYNTHIA LAMAR, Horace Mann Insurance, Springfield, Illinois, voiced support for SB 167 and offered to answer questions.

SENATOR MICCICHE thanked Ms. Lamar for her letter and helping the committee understand the bill.

SENATOR OLSON asked if there was a problem in Alaska that caused this to come to the forefront.

MS. COMPTON replied both consumers and insurers were concerned.

[2:42:55 PM](#)

CHAIR DUNLEAVY announced he would hold SB 167 in committee for further consideration. Public testimony was open.

SB 189-EXEMPTION: LICENSING OF CONTRACTORS

[2:43:01 PM](#)

CHAIR DUNLEAVY announced the consideration of SB 189. "An Act relating to an exemption from the regulation of construction contractors." This was the first hearing.

[2:43:33 PM](#)

STEVE RICCI, Aide, Senate Labor and Commerce Standing Committee, stated that SB 189 resolves an issue with AS 08.18.161 that defines the qualifications for an exemption from contractor licensing. He explained that the issue is that a growing number of people are abusing the "owner-builder" exemption that is designed to allow people to build their own home, duplex, triplex, or four-plex or a commercial building without obtaining a contractor's license. These owner-builders are in the building business without the benefit of licensure, insurance, or bonding so consumers have little protection against potentially substandard work.

Section 1, paragraph (12), on page 2, adds language that limits the use of the exemption when the homes are intended to be sold. This will prevent the current situation where someone can post For Sale signs on a row of homes they're building while claiming the exemption. He said this will protect consumers because their recourse is limited if the builder isn't a licensed contractor. He noted that the bill is the priority of the Alaska State Homebuilders Association.

[2:45:57 PM](#)

SENATOR OLSON asked if there was opposition to the bill.

MR. RICCI said the packet contains one letter of opposition from a masonry company in Fairbanks; it makes reference to the monopolistic nature of contractors.

SENATOR OLSON asked if the intent of the bill was to help the Alaska Homebuilders Association become a monopoly.

MR. RICCI clarified that the bill tries to close the loophole to ensure that the intent of the current statute is followed.

SENATOR OLSON asked how often a builder has built a home for multiple family members.

MR. RICCI suggested that the Department of Labor and Workforce Development (DOLWD) could speak to the statistics and abuses that have occurred.

[2:47:56 PM](#)

AL NAGEL, Mechanical Inspection Manager, Department of Labor and Workforce Development (DOLWD), Anchorage, Alaska, offered to answer questions.

SENATOR OLSON said that he and four others built a hanger at the Barrow airport and he finds it reprehensible that the Alaska Homebuilders Association is trying to get a law passed that may adversely affect him as an owner-builder. He questioned how he might allay the concerns of people who see this as a monopolistic move by protected membership organizations.

MR. NAGEL replied that example would not be affected by the bill. His reading of the bill was that it's more a matter of preventing someone from doing that on a regular basis.

SENATOR OLSON asked if that means he couldn't build another hanger for himself on a regular basis or add on to the existing hanger in Barrow.

MR. NAGEL clarified that the department didn't propose the language. He said his reading was that the first hanger wouldn't be a problem, but an owner-builder would be limited for two years to building just that one structure. Remodeling the hanger wouldn't be affected by the bill.

SENATOR OLSON asked where the language came from.

MR. RICCI said the sponsor worked with the homebuilders association to develop language that would allow DOLWD to decipher intent. He reiterated that the focus of the legislation was to allow reasonable exemptions for owner-builders but close the unintended loophole.

SENATOR OLSON commented that deciphering intent reminded him of the thought police, so he had reservations about some of the language in the bill.

[2:52:39 PM](#)

GREY MITCHELL, Assistant Commissioner, Department of Labor and Workforce Development (DOLWD), Juneau, Alaska, offered to answer questions related to SB 189.

SENATOR OLSON asked if the department was in favor of the bill.

MR. MITCHELL replied DOLWD was neutral on the bill.

SENATOR OLSON asked why they hadn't taken a position one way or the other.

MR. MITCHELL replied they may develop a position as comments come in and the bill proceeds.

SENATOR OLSON asked if he understood the concern he was raising that some large membership organizations could push statutory requirements and regulations that would hamstring independently minded people who don't have access to a contractor in rural Alaska.

MR. MITCHELL said he didn't believe the intent was to hamstring a true owner-builder. It's intended to separate the true owner-builder from the people that are trying to use the exemption of an owner-builder when they're actually acting as a contractor, he said.

SENATOR OLSON asked how often he's seen examples of this problem.

MR. MITCHELL deferred to Mr. Nagel who deals specifically with enforcement, but anecdotally he knows that it happens regularly.

SENATOR OLSON commented on the cost to a private person who is acting legitimately but has to defend himself.

[2:56:33 PM](#)

CHAIR DUNLEAVY offered his understanding that the purpose of the bill is to limit the shadow type business whose purpose is to churn out homes without having to adhere to the licensing, bonding, and insurance requirements imposed on legitimate contractors. The bill is not intended to prevent a private person from building their own home, duplex, triplex, four-plex, or commercial building. He asked Mr. Nagel if he had anything to add.

MR. NAGEL reiterated that the existing language protects the rights of a person to build his/her own home. The intent is to

protect against people acting as a general contractor when they haven't assumed the responsibility of insurance, bonding, and licensure. Responding to Senator Olson's question about numbers, he said he didn't have that information, but the department has found that in certain areas of the state individuals do routinely build primarily residential structures without holding licensure or insurance. "They hold themselves out to be an owner-builder when the For Sale sign oftentimes beats the paint drying," he said. Responding to a further question from Senator Olson, he offered to follow up with information about the number of unlicensed contractors that DOLWD has taken enforcement action against. He warned that owner-builders aren't tracked in a separate category.

SENATOR OLSON asked how many times the state has prevailed when it has taken enforcement action.

MR. NAGEL explained that on a first or second offense the department generally issues an administrative fine and a civil cease-and-desist order. The criminal penalties of the current statute are considered on a third or subsequent offense.

SENATOR OLSON commented that defending oneself from a fine oftentimes is more expensive than paying the fine.

[3:02:00 PM](#)

At ease

[3:02:18 PM](#)

CHAIR DUNLEAVY reconvened the meeting.

SENATOR MICCICHE summarized that the essence of the bill is that somebody who is in the building business should become a building contractor. It doesn't change a thing for the people who want to build their own home.

CHAIR DUNLEAVY held SB 189 for further consideration.

[3:02:59 PM](#)

There being no further business to come before the committee, Chair Dunleavy adjourned the Senate Labor and Commerce Standing Committee meeting at 3:02 p.m.