

HOUSE FINANCE COMMITTEE
April 8, 2015
3:02 p.m.

[3:02:45 PM](#)

CALL TO ORDER

Co-Chair Thompson called the House Finance Committee meeting to order at 3:02 p.m.

MEMBERS PRESENT

Representative Mark Neuman, Co-Chair
Representative Steve Thompson, Co-Chair
Representative Dan Saddler, Vice-Chair
Representative Bryce Edgmon
Representative Les Gara
Representative Lynn Gattis
Representative David Guttenberg
Representative Scott Kawasaki
Representative Cathy Munoz
Representative Lance Pruitt
Representative Tammie Wilson

MEMBERS ABSENT

None

ALSO PRESENT

Jane Pierson, Staff, Representative Steve Thompson; Anna Kim, Tax Division, Department of Revenue; Brandon S. Spanos, Deputy Director, Tax Division, Department of Revenue; Representative Cathy Tilton, Sponsor; Heath Hilyard, Staff, Representative Cathy Tilton; Laura Stidolph, Staff, Representative Kurt Olson; Micaela Fowler, Liaison, Department of Commerce, Community and Economic Development; Lacy Sanders, Analyst, Legislative Finance Division; Cynthia Franklin, Executive Director, Alcoholic Beverage Control Board, Department of Commerce, Community and Economic Development.

SUMMARY

HB 81 EXEMPTION: LICENSING OF CONTRACTORS

HB 81 was HEARD and HELD in committee for further consideration.

HB 88 FEES FOR TIRES

CSHB 88(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from the Department of Revenue.

HB 116 EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD

HB 116 was HEARD and HELD in committee for further consideration.

[3:02:57 PM](#)

Co-Chair Thompson discussed the meeting agenda.

#hb88

HOUSE BILL NO. 88

"An Act relating to remittance of tire fees; and providing for an effective date."

[3:03:40 PM](#)

Co-Chair Neuman MOVED to ADOPT the proposed committee substitute for HB 88, Work Draft 29-GH1044\W (Nauman, 4/6/15). There being NO OBJECTION, it was so ordered.

JANE PIERSON, STAFF, REPRESENTATIVE STEVE THOMPSON, explained the changes in the Committee Substitute (CS). The first change appeared on page 1, lines 7 through 9 with the addition of the following language:

The department may only, on a form required under this subsection, require a seller to provide information on tires subject to the tax under this section.

Ms. Pierson elaborated that the change had originated from Co-Chair Neuman based on a lengthy form he had previously shown the committee. The second change appeared on page 1, line 14 where the language "not to exceed \$900 a quarter" had been changed to "not to exceed \$600 a quarter..."

Vice-Chair Saddler asked for verification that the department may only require a seller to provide information on tires subject to the tax. He asked for confirmation that the purpose of the language was to limit the information submitted to the department. Ms. Pierson replied in the affirmative.

Co-Chair Thompson noted that Representative Kawasaki had joined the meeting. He remarked that department staff were available for questions.

Representative Kawasaki referred to the quarterly return ["Alaska Tire Fees Quarterly Return" form (copy on file)]. He thought some of the questions on the form were unnecessary and wondered who had developed the forms.

ANNA KIM, TAX DIVISION, DEPARTMENT OF REVENUE, deferred the question to her colleague.

Co-Chair Neuman interjected that he had gone over the form with the Department of Revenue (DOR). He detailed that the department did not need to know about tractor or ATV tires. The requirements had been slimmed down to the number of passenger vehicles and studded tires the business had and how many it had sold. He explained that the fee had been reduced because the requirements had been slimmed down significantly.

Co-Chair Thompson noted the form was much shorter.

Representative Kawasaki believed that sometimes forms were more complex than necessary. He would not be opposed to similar language for all forms requested by the government.

Co-Chair Thompson clarified the question. He remarked that the form had been simplified significantly.

BRANDON S. SPANOS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE, affirmed that the form had been simplified. He detailed that the department had removed page 2 related to inventory. Additionally, clarification had been added to line 1 to indicate that the question was related to tires subject to the fee the department was asking about. Other clarifying changes had been made to the form instructions. He noted that the forms would be published as soon as possible.

Representative Gattis communicated that tire dealers in Mat-Su had been working with the department to improve the form. She had confidence that the changes would be beneficial.

Co-Chair Thompson remarked that Representative Guttenberg had joined the meeting.

Co-Chair Thompson OPENED and CLOSED public testimony.

Co-Chair Neuman MOVED to REPORT CSHB 88(FIN) out of committee with individual recommendations and the accompanying fiscal note.

Representative Gara facetiously OBJECTED for discussion. He joked that he had not made any comments about the bill. He WITHDREW his OBJECTION.

There being NO further OBJECTION, CSHB 88(FIN) was REPORTED out of committee with a "do pass" recommendation and with one new fiscal impact note from the Department of Revenue.

[3:10:59 PM](#)

AT EASE

[3:13:59 PM](#)

RECONVENED

#hb81

HOUSE BILL NO. 81

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

[3:14:10 PM](#)

Co-Chair Thompson relayed that the committee had not previously heard the legislation; therefore, he did not intend to report the bill from committee that day.

REPRESENTATIVE CATHY TILTON, SPONSOR, spoke to the legislation. She shared that she had introduced the bill at the request of the Mat-Su Homebuilders, the Alaska Homebuilders, and the Alaska Board of Realtors. She read from a prepared statement:

After speaking with some contractors, realtors, and certain individuals throughout our state, it became clear that there are individuals who are exploiting an unintended loophole in the existing statutory language. Thus creating an uneven playing field for licensed professionals who abide by the law and potentially exposing unwitting homebuyers to substandard construction.

In short, HB 81 is really a consumer protection bill and is not a bill to restrict fair trade. In order to better understand HB 81 it is important to understand what it is not and what it does not do. HB 81 does not prevent Alaskans from building their own home, HB 81 does not prevent Alaskans from ever selling a home that they've built, and HB 81 does not propose a new licensure. It is not, nor was it ever my intent to do any of those things.

Under current state law the licensed contractor exemption opens up a situation where an unlicensed contractor can operate a substantial business enterprise while avoiding licensure, bonding, and insurance requirements. HB 81 provides a means of notifying the department if an owner/builder sells their home before a two-year period in existing statute. The department is not required to take action on the notification, but simply is provided with the ability to see if homes were being built repeatedly by someone without a licensure.

The language before you is a result of a long process of working with the Homebuilders' Association, the Department of Labor and Workforce Development, and individual Alaskans that ally concerns of subjectivity on the part of the department, while making violations to the exemption enforceable.

I am certain that my fellow committee members can remember when they purchased their first home and what a financial risk that is. It's one of the biggest financial obligations that we make in our life. HB 81 helps us ensure those homebuyers that they have the expectations of a uniform standard of professionalism. HB 81 simply seeks to reasonably include all individuals engaged in home construction as a regular

course of business in the existing residential contractor licensure.

[3:17:40 PM](#)

Representative Gattis communicated that she had signed on as a co-sponsor during the bill's early stages. She noted that there were several things she had questions about. She shared that she had been raised in a house that had been built by her father out-of-pocket. She spoke to her mother's complaint over the years that the house had never been completed. She discussed that there were many Alaskans who built their own homes out-of-pocket and sometimes never completed the project. She referenced the two-year period in the bill. She provided an example of a family living in and building their home. She wondered what happened in the third year if the home was still under construction. She reasoned that some homes in Alaska had been under construction for 10 to 15 years. She believed the bill still had some struggles related to the timeline (i.e. when construction started, stopped, etcetera). She was supportive of the bill's purpose, but wondered at what point the house became "completed."

HEATH HILYARD, STAFF, REPRESENTATIVE CATHY TILTON, answered that language had been included in the most recent bill version (Work Draft 29-LS0346\E, Strasbaugh, 3/19/15) to ensure that Alaskans were not unfairly prevented from selling their home. He addressed questions related to when a home was determined to be complete.

[3:20:24 PM](#)

AT EASE

[3:22:29 PM](#)

RECONVENED

Co-Chair Thompson set the bill aside [to obtain the most recent CS].

HB 81 was HEARD and HELD in committee for further consideration.

#hb116

HOUSE BILL NO. 116

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

[3:22:45 PM](#)

LAURA STIDOLPH, STAFF, REPRESENTATIVE KURT OLSON, relayed that the bill would extend the termination date of the Alcoholic Beverage Control (ABC) Board to June 30, 2018. As requested, Cynthia Franklin, Director of the ABC Board had provided an updated fiscal note with a cost analysis, which included the breakdown of expenditures. She relayed that department staff was present to speak to the fiscal note.

Representative Wilson referred to the fiscal note. She wondered if a \$1.7 million change in revenue was related to marijuana. She did not see a breakout of the numbers under the note's analysis section.

Ms. Stidolph deferred the question to the Department of Commerce, Community and Economic Development.

[3:24:43 PM](#)

MICAELA FOWLER, LIAISON, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, relayed that in addition to the updated fiscal note the department had provided a document breaking out costs related to alcohol and costs related to marijuana. She elaborated that there was not an appropriation request specific to marijuana in the fiscal note. She detailed that the information had been included because it had been in the governor's budget request. She expounded that the increment had been stripped out of the budget, but if the money was allocated elsewhere it would be included in the ABC Board's budget.

Representative Wilson believed the fiscal note should reflect that it only pertained to the ABC Board. She observed that the fiscal note included \$1.7 million more (related to marijuana) if the bill was passed. She believed the new fiscal note included funds needed by the ABC Board in addition to what the department anticipated would be needed for a marijuana board. She believed Ms. Fowler had testified that the bill was not asking for funds related to marijuana. She opined that the correct fiscal note should only be \$1.752 million if it only included the alcohol portion.

Co-Chair Thompson agreed with Representative Wilson's synopsis.

Representative Wilson wondered if the fiscal note would be adjusted when the bill was moved from committee. Co-Chair Thompson replied in the affirmative.

Representative Wilson relayed that she was not comfortable with including the marijuana portion if the amount was not known. She thought the change would make the fiscal impact zero since the \$1.7 million was collected in fees from alcohol license owners.

Ms. Fowler replied that the department would not draft a note to show a zero, but the cost of alcohol licensing did offset the entire cost of the ABC Board.

Representative Wilson thought the note would indicate \$1.752 million under total operating expense, but nothing would come from general funds.

LACY SANDERS, ANALYST, LEGISLATIVE FINANCE DIVISION, replied that the fiscal note was informational only and was not requesting an appropriation. She explained that the department had illustrated what had been included in the governor's FY 16 request. She elaborated that the ABC Board technically included the marijuana regulation, which was included on the fiscal note. She explained that marijuana regulation was currently under the purview of the ABC Board. The fiscal note provided an accurate picture and would not issue an appropriation.

Representative Wilson observed that the fiscal note did not include any indicator that it was purely informational. She pointed out that there was a bill for the marijuana board that she anticipated would have its own fiscal note. She had not heard of an informational only fiscal note. She wondered if there would be a problem if the fiscal note was limited to the bill's continuation of the ABC Board and any generated fees associated with the board.

Ms. Sanders answered that there would be a separate fiscal note for the board. She explained that the information included in the current fiscal note was related to regulation of marijuana, which was not a board for marijuana. She clarified that a marijuana board had not

been established, which would happen through a separate bill. The regulation of marijuana had been set up through the [statewide] voter initiative that had passed. She furthered that the department's budget reflected money for the regulation of marijuana, not a board for marijuana.

Representative Wilson asked for verification that if the bill passed with the current fiscal note the committee would be approving an additional cost to the General Fund of \$1.5 million.

[3:31:18 PM](#)

Ms. Sanders replied in the negative. She explained that if an appropriation was required it would be included in the note's first column titled "FY2016 Appropriation Requested." She clarified that the funds appeared in the second column titled "Included in Governor's FY2016 Request." She explained that the increment had been included in the governor's budget as submitted to the legislature.

Representative Edgmon noted that the initiative had said "may" create an ABC Board, which was reflected in the fiscal note. Ms. Sanders answered that the establishment of a board was in a separate bill before the committee. The current legislation pertained to the extension of the ABC Board and its purview currently included the regulation of marijuana.

Co-Chair Thompson noted that the initiative called for the ABC Board to oversee marijuana unless a separate marijuana board was established. He reasoned that the legislature had not established a marijuana board; therefore, the fiscal note was correct.

Vice-Chair Saddler had never seen an informational fiscal note. He asked for verification that if the first column was blank it meant a note was informational only. Ms. Sanders answered in the affirmative. She elaborated that if additional money was necessary it would appear in the first column. She added that the term "informational only" was frequently used internally within the Legislative Finance Division office.

Representative Pruitt asked to clarify the difference between the marijuana and the ABC Board as well as the

sources of funds. He pointed to the fiscal note and surmised that the total cost for the ABC Board without marijuana in the current year was \$1.7 million. He remarked that the separate request was for close to \$1.6 million. He pointed to the change in revenues and wondered if it would cost the state more for the ABC Board without marijuana.

Ms. Sanders answered that the fiscal note currently reflected the revenue generated from alcohol regulation. She relayed that eventually the department would develop regulations for marijuana and would potentially collect fees to cover the costs, the cost was indeterminate at present. She elaborated that ultimately there would be a funding source change in future budgets.

Representative Pruitt asked for verification that eventually the fund source covering cost related to marijuana would not be General Fund. Ms. Sanders replied in the affirmative. She added that most likely funding would come from program receipts (code 1005), which would cover the entire agency.

CYNTHIA FRANKLIN, EXECUTIVE DIRECTOR, ALCOHOLIC BEVERAGE CONTROL BOARD, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT, affirmed the intention for both substances to be funded by program receipts once marijuana establishments were up and running.

Representative Pruitt assumed there was more than \$1.7 million in "General Fund program" that was derived from alcohol. He asked if the alcohol tax revenue would only pay for alcohol related costs and not any costs associated with marijuana.

Ms. Franklin answered in the affirmative. She detailed that over the past several fiscal years there had been dollars returned to the General Fund that were program receipts from alcohol that had not been spent in the ABC budget. She referred to current legislation (SB 99 related to ABC and alcohol regulation). She discussed that in future years there was potentially a need for the alcohol funds; the department had not considered using alcohol program receipts to fund marijuana costs.

[3:37:58 PM](#)

Co-Chair Neuman stated that some would prefer to see the initial startup funds for the establishment [of marijuana] to come from the taxation of marijuana sales. He wondered if marijuana board legislation did not pass, whether it was possible to develop a CS that would allow the state to recoup the funds associated with marijuana when it began taxing the substance.

Ms. Franklin deferred the question to Ms. Sanders.

Ms. Sanders answered that she was uncertain how the specifications would be established in a CS. She relayed that the ABC Board would set up regulations that would include the fees that would be paid and anything in excess of the operating costs would be deposited into the General Fund. She was not certain when the ABC Board planned to begin collecting fees.

Ms. Franklin relayed that the first [marijuana] licenses would be issued in May 2016. The departments estimated that the first tax coming in from the licenses would be around July 2016. She recalled recent testimony from the Department of Revenue, Tax Division that the first monies from marijuana would be collected in 2017.

Co-Chair Neuman noted his preference that any excess fees go back to cover the cost of the initial [marijuana] setup.

Representative Gara asked what had happened to the governor's FY 16 request that had included \$3.3 million. Ms. Sanders answered that the governor had requested an appropriation for \$1.7 million. She detailed that the money had been removed from the House and Senate operating bills. There were other avenues under discussion that would get the funds into the division's budget for FY 15 and FY 16.

Representative Gara did not want anyone to walk away thinking there was no cost for marijuana regulation. He noted there would be a period where the state was spending money prior to collecting it. He reasoned that developing regulations would only use state staff. He wondered why it would cost money to adopt regulations.

Ms. Franklin answered that the cost was associated with staff costs and the establishment of a database. She explained that everyone would want significant data about marijuana licenses and information related to moving

forward with implementing the voter's initiative safely. She relayed that the division was a paper-based agency that was unable to provide data currently on liquor licensing without investing a substantial amount of staff time in research. Additionally, there were costs associated with tracking the substance in order to verify that retailers were selling marijuana that had been grown legally in a licensed cultivation facility. The governor's request that had been stripped out of the operating budget had included an additional six staff positions in addition to the existing ten positions statewide that were responsible for regulating the 1,875 liquor licenses. She continued that the division had a PowerPoint presentation comparing the requested staff with those in other states. She stated that the division's staff working on liquor licenses was quite small and the additional request was small. She relayed that the division had reciprocal service agreements with the Department of Law and paid by the hour for its lawyer's time. She summarized that the cost came out of the division's budget to write the regulations and to safely enforce its licensing rules.

[3:44:15 PM](#)

Representative Gara expressed distaste at the idea of state agencies charging each other for costs. He believed the costs were pretend and confusing. He understood that there would be some staff required to initiate the commercial licenses prior to May. He did not know how involved the board would be in enforcing against people pretending to grow pot for personal use who were actually selling commercially. He wondered if the department needed staff for that purpose and why state troopers and police were not sufficient for that role.

Ms. Franklin answered that there were two reasons the ABC utilized five enforcement officers statewide and why it was requesting three additional officers. First, the agency became a de facto expert statewide related to the rules designated around the substance. For example, if a citizen called their local law enforcement officer because they saw someone riding a bike selling beers, the law enforcement officer would in turn call the ABC Board to ask whether the activity was legal. She explained that there were many rules under Title 4 associated with alcohol; it was difficult to understand them all. She stated that it would be even more difficult with marijuana if it remained in the

controlled substances act, for local law enforcement to know the rules and how to apply them on the street. She communicated that enforcement officers were responsible for education, inspection of licensees to ensure compliance, and for enforcing against individuals selling alcohol or marijuana without a license. There were some examples of businesses that had opened without a licenses. She continued that ABC received the related calls and pressure from the other individuals wanting to open a business who saw the issue as unfair competition. Additionally, ABC received calls from law enforcement and citizens. She explained that the troopers' priority list varied by day. The agency's priority was public safety and enforcement of the rules around the substances. She noted that the agency had an officer present for testimony. She relayed that enforcement had been added by all states that had legalized marijuana at statewide and local levels. She did not believe the substance could be safely regulated without officers making sure the rules were followed.

[3:47:45 PM](#)

Representative Gara discussed that currently personal use was the only thing the state had. He stated that a law enforcement officer understood the difference between personal and commercial use and arrested people not following the law. He understood staff would be needed to begin issuing licenses in May; however, he did not believe enforcement would be needed beyond enforcement officers. He could identify \$1.2 million that would do much more important things. He did not support funding additional enforcement officers before any commercial establishments were in place. He stated that including marijuana on the fiscal note was confusing and could be authorizing positions the state did not yet need.

Co-Chair Neuman wondered if the ABC Board was currently up to date on any complaints that had been submitted or other day-to-day items. Ms. Franklin answered that the board had addressed the issues in the audit and was up to date with its current workload.

Representative Wilson did not understand why the ABC Board was taking questions on the marijuana issue until something had been put in place. She asked for verification that the issue resided with the Department of Public Safety (DPS) until the regulations were drafted. For example, she

believed enforcement would fall to DPS if an individual began selling marijuana commercially before regulations were in place.

Ms. Franklin answered that it was a public safety issue, but ABC still received calls. She detailed that ABC was a responsive state agency and could not have employees refuse to respond to questions. She elaborated that citizens and law enforcement agencies had contacted the division about businesses that had started up prematurely. Currently under statute ABC officers had specific enforcement authority and a specific commission from the commissioner of DPS over the criminally punishable provisions in AS Title 4. The division had told callers they would have to call the troopers related to the three businesses that had gotten out ahead. However, that did not mean that the division did not need to know the answers. She relayed that the division relied on local law enforcement when it came to enforcing Title 4 provisions; the agency's five officers statewide could not provide enforcement alone. She added that the same would be true for the three marijuana officers. She stressed the imperative nature of the enforcement of rules around alcohol and marijuana. She discussed that marijuana was still illegal federally; therefore, in order to implement the voters' initiative, the agency had to ensure strict compliance with guidance given by the federal government in the Cole Memorandum. The memorandum addressed strict regulation and enforcement, including ensuring the substance did not get into the hands of minors and that it was not diverted across state lines. The division had originally intended to ask for five officers; however, in light of the challenging fiscal climate, the division had limited its request to three officers. She reiterated the imperative nature of enforcement.

[3:52:46 PM](#)

Representative Wilson was uncomfortable having the substances [alcohol and marijuana] combined. She did not want the state jumping the gun by regulating things that had not gone through the legislative process. She understood that some of the funds requested by the governor [shown in the fiscal note] had been stripped out of the budget; therefore, she wondered where to look to find the most current budget information.

Ms. Sanders answered that currently in the House and Senate versions of the operating budget (HB 72), there was \$1,752,400 and \$23,000 in interagency receipts. There were other options to get the marijuana funding for the ABC Board. She pointed to the estimated supplemental cost for FY 15. She explained that the governor's budget also included money for marijuana regulation in the supplemental bill and \$1.5 million for FY 16 in the operating budget request. The funding could be added to another bill that would establish a marijuana control board or it could be added to the supplemental budget.

Representative Wilson was concerned that the fiscal note included items that did not reflect the bill. She stated that the bill was about the continuation of the ABC Board and making sure it was cost neutral.

[3:55:33 PM](#)

Ms. Sanders equated the voters' initiative [related to marijuana] to a bill. She addressed that it was not the normal legislative process, but because the initiative passed there had been no opportunity for the department to attach an appropriating fiscal note to the initiative. Therefore, the department's inclusion of the funding in the governor's budget was technically correct. She stated that while it may be included in another fiscal note, currently regulation of marijuana was under the purview of the ABC Board; therefore, it was technically correct to include marijuana in the fiscal note.

Representative Munoz asked whether it was best to use the ABC Board or to establish a separate board for the regulation of marijuana. She wondered if there were cost savings associated with maintaining the function under the ABC Board.

Ms. Franklin replied that the governor had introduced HB 123 that would create a marijuana control board. For fiscal savings, the bill represented a two board, one agency structure. She detailed that the ABC Board was comprised of five volunteers and met five times annually. The idea would be to duplicate the structure for a marijuana control board. The bill proposed that marijuana board meetings would occur the day following ABC Board meetings to reduce staff travel costs; both boards were required to meet across the state to provide public access to the boards.

The department was supportive of a separate marijuana control board. She explained that the makeup of the ABC Board was specialized to alcohol and contained industry representation. She continued that increasing industry representation would swell the board to 9 members for alcohol and marijuana, which would not bring a significant cost savings. There were other ways to provide a cost savings by housing both boards under the same division.

HB 116 was HEARD and HELD in committee for further consideration.

Co-Chair Thompson discussed the schedule for the following day.

ADJOURNMENT

3:59:54 PM

The meeting was adjourned at 3:59 p.m.