

ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 31, 2016

3:20 p.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Liz Vazquez, Vice Chair
Representative Neal Foster
Representative David Talerico
Representative Geran Tarr
Representative Adam Wool

MEMBERS ABSENT

Representative Louise Stutes

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

State Medical Board

Bruck Ann Clift - Palmer, Alaska
Joy Marasco Neyhart - Juneau, Alaska
Grant Thomas Roderer - Anchorage, Alaska
Camille Olson Carlson - Fairbanks, Alaska

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 200

"An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

- MOVED CSHB 200(HSS) OUT OF COMMITTEE

HOUSE BILL NO. 328

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

- MOVED CSHB 328(HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 200

SHORT TITLE: ADOPTION OF CHILD IN STATE CUSTODY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

04/16/15	(H)	READ THE FIRST TIME - REFERRALS
04/16/15	(H)	HSS, JUD
03/29/16	(H)	HSS AT 3:00 PM CAPITOL 106
03/29/16	(H)	Heard & Held
03/29/16	(H)	MINUTE(HSS)
03/29/16	(H)	HSS AT 6:00 PM CAPITOL 106
03/29/16	(H)	Heard & Held
03/29/16	(H)	MINUTE(HSS)
03/31/16	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 328

SHORT TITLE: REGULATION OF SMOKING

SPONSOR(S): TALERICO

02/22/16	(H)	READ THE FIRST TIME - REFERRALS
02/22/16	(H)	HSS, JUD, FIN
03/22/16	(H)	HSS AT 3:00 PM CAPITOL 106
03/22/16	(H)	Heard & Held
03/22/16	(H)	MINUTE(HSS)
03/24/16	(H)	HSS AT 3:00 PM CAPITOL 106
03/24/16	(H)	Heard & Held
03/24/16	(H)	MINUTE(HSS)
03/31/16	(H)	HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

BRUCK ANN CLIFT, Appointee
Palmer, Alaska

POSITION STATEMENT: Testified as appointee to the State Medical Board.

HILARY MARTIN, Attorney
Legislative Legal Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 328.

JOSHUA BANKS, Staff
Representative Dave Talerico
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 328 on behalf of the bill sponsor, Representative Talerico.

CHUCK KOPP, Staff
Senator Peter Micciche
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Responded to questions during discussion of HB 328 on behalf of the sponsor for the senate companion bill, Senator Micciche.

JOY MARASCO NEYHART, Appointee
Juneau, Alaska

POSITION STATEMENT: Testified as appointee for the State Medical Board.

GRANT THOMAS RODERER, M.D., Appointee
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee for the State Medical Board.

CAMILLE OLSON CARLSON, Appointee
Fairbanks, Alaska

POSITION STATEMENT: Testified as appointee for the State Medical Board.

ACTION NARRATIVE

[3:20:18 PM](#)

CHAIR PAUL SEATON called the House Health and Social Services Standing Committee meeting to order at 3:20 p.m. Representatives Seaton, Wool, Talerico, and Tarr were present at the call to order. Representatives Foster and Vazquez arrived as the meeting was in progress.

CONFIRMATION HEARING(S) **State Medical Board**

[3:21:17 PM](#)

CHAIR SEATON announced that the first order of business would be the confirmation hearings for appointees to the State Medical Board.

[3:21:36 PM](#)

BRUCK ANN CLIFT, Appointee, State Medical Board, said that she is in her third year of practicing family medicine in the Matanuska-Susitna Valley, and it is her first appointment to the State Medical Board. She relayed that she is eager to participate in the licensing process and ensure efficient and ethical medical practices in the state. She declared that she had a strong interest in the future of medical education in Alaska, as well as development of local bio-medical industries.

[3:22:21 PM](#)

REPRESENTATIVE TARR asked about her interest for serving on the State Medical Board.

MS. CLIFT said that she had a strong interest in the future of medical education as it pertained to people entering the field in Alaska, citing that it could be more difficult for those from a rural environment. She shared her residency and training background, and noted her strong interest in providing medical services to the fluctuating populations of the state.

[3:23:44 PM](#)

The committee took a brief at-ease.

[3:24:59 PM](#)

REPRESENTATIVE TALERICO moved to advance the confirmation of Bruck Ann Clift, appointee to the State Medical Board, to a joint session of the House and Senate for consideration. There being no objection, the confirmation was advanced.

REPRESENTATIVE TALERICO reminded members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and the nominations are merely forwarded to the full legislature for confirmation or rejection.

HB 200-ADOPTION OF CHILD IN STATE CUSTODY

[3:25:30 PM](#)

CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 200, "An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

[3:25:47 PM](#)

CHAIR SEATON removed his objection [during the meeting of 3/29/16] to adopt the committee substitute (CS) for HB 200, labeled 29-GH1262\W, Glover, 3/24/16, as the working draft. There being no further objection, Version W was before the committee.

[3:26:21 PM](#)

REPRESENTATIVE TALERICO moved to report CSHB 200, labeled 29-GH1262\W, Glover, 3/24/16, out of committee with individual recommendations and the accompanying fiscal notes. There being no further objection, CSHB 200(HSS) was moved from the House Health and Social Services Standing Committee.

[3:26:55 PM](#)

The committee took an at-ease from 3:26 p.m. to 3:29 p.m.

HB 328-REGULATION OF SMOKING

[3:29:14 PM](#)

CHAIR SEATON announced that the next order of business would be HOUSE BILL NO. 328, "An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

[Before the committee was proposed committee substitute (CS) for HB 328, Version 29-LS1502\W, Martin, 3/18/16, adopted as a work draft on 3/24/16.]

[3:30:14 PM](#)

The committee took an at-ease from 3:30 p.m. to 3:36 p.m.

[3:36:10 PM](#)

REPRESENTATIVE WOOL [moved to adopt] Amendment 1, labeled 29-LS1502\W.9, Mischel/Martin, 3/30/16, which read:

Page 4, line 9:
Delete "or"

Page 4, line 16, following "section":

Insert "; or
(3) in an establishment licensed under AS
17.38 that is a freestanding building not attached to
another business or to a residence"

REPRESENTATIVE VAZQUEZ objected.

[3:36:59 PM](#)

REPRESENTATIVE WOOL explained that as there are other exemptions for different establishments, proposed Amendment 1 would allow any exemptions that AS 17.38 allowed in the event it allowed any sort of consumption on any premises as, he noted, the Marijuana Control Board has said it would in certain circumstances. This would allow those [establishments] to operate without the smoking ban superseding that.

REPRESENTATIVE TARR asked whether Legislative Legal and Research Services could clarify any ambiguity for the definition of freestanding building.

[3:37:47 PM](#)

HILARY MARTIN, Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, explained that a freestanding building could be defined through regulation, because the proposed bill itself did not define freestanding building, or it could be interpreted as the common meaning of the word.

CHAIR SEATON questioned whether buildings abutting each other, but with separate structural walls, are considered freestanding.

MS. MARTIN responded yes, if it's not attached to another building even though the walls are next to each other, and assuming they are not structurally dependent on each other.

CHAIR SEATON offered his understanding that, as long as the walls are not dependent on each other for structural unity and there are no common passages between, the buildings would be considered freestanding.

MS. MARTIN concurred.

REPRESENTATIVE FOSTER asked whether many of the buildings in downtown Juneau, connected but not requiring the adjacent

building for structural support, would be considered freestanding.

MS. MARTIN responded yes, if they are separate buildings and not attached, even though next to each other.

REPRESENTATIVE TARR asked whether any business in a strip mall meets that requirement.

MS. MARTIN opined that strip mall locales are not individually freestanding, as they are part of one building with many businesses and outside entrances.

REPRESENTATIVE TARR asked about a strip mall in which the units are individually owned, similar to a condominium.

MS. MARTIN offered her belief that ownership would not enter into this definition.

CHAIR SEATON suggested that the building unit would be a freestanding building, although the individual businesses within it would not be considered freestanding.

REPRESENTATIVE WOOL suggested that "not attached" is the definitive point.

CHAIR SEATON asked whether a definition for a freestanding building could be written to include the points discussed regarding structural independence with a lack of common entrances or internal connections to abutting buildings.

MS. MARTIN replied yes, and said that lacking a definition, the determination for regulation and enforcement would defer to the department.

REPRESENTATIVE WOOL, directing attention to proposed Amendment 1, suggested that only "freestanding" should be used, and "not attached" should be deleted, as that could be in conflict. He stated that he would like a legal definition.

[3:46:45 PM](#)

REPRESENTATIVE WOOL [moved to adopt] Conceptual Amendment 1 to Amendment 1, on line 7, to delete "not attached to another business or to a residence." There being no objection, Conceptual Amendment 1 to Amendment 1 was adopted.

[3:48:50 PM](#)

The committee took a brief at-ease.

[3:50:28 PM](#)

REPRESENTATIVE VAZQUEZ removed her objection. There being no further objection, Amendment 1, as amended, was adopted.

[3:51:33 PM](#)

REPRESENTATIVE TALERICO moved to adopt Amendment 2, labeled 29-LS1502\W.3, Martin, 3/28/16, which read:

Page 2, line 20:
Delete "primarily"

CHAIR SEATON objected for discussion.

REPRESENTATIVE TALERICO explained that Amendment 2 removes the ambiguity of the word "primarily" and requires a definite designation for places where children play.

[3:52:28 PM](#)

CHAIR SEATON removed his objection.

[3:52:42 PM](#)

REPRESENTATIVE VAZQUEZ objected for discussion and asked about state or municipal parks, which are often used by many age groups, including children, but are not solely designated for use by children.

REPRESENTATIVE TALERICO explained that the proposed amendment generically covers "the overall designation of potentially a large area." Amendment 2 provides for a separate, designated area of play specifically for children, and not just a wide open space. He opined that state parks are not wholly designated as play grounds, although there are some areas designated as such.

[3:54:19 PM](#)

CHAIR SEATON suggested a friendly amendment, page 2, line 20, after "park" insert "or portion thereof". He said that this eliminates the need to designate the entirety of a park, and

allows for a children's playground area in a large park to be exempted.

REPRESENTATIVE TALERICO accepted the friendly amendment.

[3:55:29 PM](#)

The committee took a brief at-ease.

[3:56:34 PM](#)

CHAIR SEATON pointed out that the preceding language, "at an area located at those parks" provides a designated area for a portion of the park to be included. He withdrew the friendly amendment.

REPRESENTATIVE VAZQUEZ maintained her objection stating that there are few places solely designated for children to play and that she did not "see this as a realistic scenario in everyday life." She declared that the whole provision is unsettling to her as it's difficult to define the addressed areas and difficult to interpret.

[3:59:07 PM](#)

JOSHUA BANKS, Staff, Representative Dave Talerico, Alaska State Legislature, shared that an area located at a public or private school, state or municipal park would not be all inclusive, but would require that an area be designated as a place for children to play.

REPRESENTATIVE VAZQUEZ stated her belief that use of the words "play area" or "playground" is more specific, as opposed to "an area located".

REPRESENTATIVE WOOL asked whether a ball field would be included because it's an area used by both adults and children.

REPRESENTATIVE TALERICO stated his understanding that a sports field is not a place to smoke and suggested that any area designated for children should be non-smoking.

CHAIR SEATON said that a Little League field would be specifically designated for children.

REPRESENTATIVE TARR pondered the affects this legislation might have on large tracts of multi-use land, including Kincaid Park

or Russian Jack Park, and suggested that clarity needs to be provided in a definition to avoid inadvertent miss-use.

REPRESENTATIVE WOOL pointed to complexes comprised of softball fields used by adults and children.

REPRESENTATIVE TARR suggested that having this discussion on the record would allow the department to more clearly define the legal smoking areas and avoid any confusion.

[4:05:39 PM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, shared that the same question was raised in the Senate, and pointed out that discretion is built into the bill because it requires a "Notice of Designation" as a children's play area. If it is not noticed, then smoking is not prohibited. He said this language aligns with what is contained in the Anchorage Municipal smoking ordinance in that it requires designation as a non-smoking area.

REPRESENTATIVE VAZQUEZ suggested the addition of "clearly posted" preceding "designated".

MR. KOPP explained that if a place is designated, then it must be posted. He reminded the committee that smoking is allowed outdoors unless the area is otherwise posted.

REPRESENTATIVE VAZQUEZ asked for a definition of "designated".

MR. KOPP replied that it is specially set apart for a purpose.

CHAIR SEATON directed attention to Version W, page 4, line 17, and asked whether the definition contained there is adequate.

REPRESENTATIVE VAZQUEZ maintained her question and pointed to page 4, line 17, opining that the language simply sets forth the type of signs where smoking is prohibited. She directed attention to page 2, which includes language stating an "area that's designated as a place for children to play" and no directive regarding signs to prohibit smoking.

MR. KOPP directed attention to page 4, line 17, and read: "a person who is in charge of a place..." He pointed out that the person in charge is required to conspicuously display a sign that reads [Smoking Prohibited by Law]. He said that a locale

specifically prohibited and designated for children to play must be noticed by the person in charge.

REPRESENTATIVE TARR ascertained that the maximum fine for non-compliance would be \$50.

[4:10:37 PM](#)

REPRESENTATIVE VAZQUEZ maintained her objection, opining that the language is confusing. She stated that an area designated for children to play does not automatically equal a prohibition of smoking. She asked what is meant by the language, "area located at a public or private school or state or municipal..." and pointed out that this could include a multi-use park/area.

[4:11:27 PM](#)

A roll call vote was taken. Representatives Wool, Tarr, Foster, Vazquez, Talerico, and Seaton voted in favor of Amendment 2. Therefore, Amendment 2 was adopted by a vote of 6-0.

REPRESENTATIVE VAZQUEZ advised that she was not objecting to the proposed amendment, she was objecting to the vagueness on page 2, lines 19-20. She opined that it would be a great exercise in interpretation.

[4:12:24 PM](#)

REPRESENTATIVE TALERICO moved to adopt Amendment 3, labeled 29-LS1502\W.4, Martin, 3/28/16, which read:

Page 2, line 16:
Delete "marine"

Page 2, line 31:
Delete "marine"

Page 4, line 5:
Delete "marine"

CHAIR SEATON objected for discussion.

MR. BANKS explained that proposed Amendment 3 deletes the word "marine" in three areas of the bill, and pointed out that this relates to the prohibition of smoking on certain vessels, the distance a person must be away from the vessel in order to smoke, and speaks to the allowance of smoking on certain

vessels. He turned to a previous meeting wherein comments and concerns were voiced pointing out that the term marine vessels excludes fresh water vessels, and he offered that by removing the specific terminology, all vessels on all waters will be included.

CHAIR SEATON removed his objection. There being no further objection, Amendment 3 was adopted.

[4:14:24 PM](#)

REPRESENTATIVE TALERICO moved to adopt Amendment 4, labeled 29-LS1502\W.5, Martin, 3/28/16, which read:

Page 8, lines 26 - 29:

Delete all material and insert:

(4) "e-cigarette" means any product containing or delivering nicotine or any other substance intended for human consumption that can be used by a person through inhalation of vapor or aerosol from the product, whether the product is manufactured, distributed, marketed, or sold as an e-cigarette, e-cigar, e-pipe, e-hookah, vape pen, or any other product name or descriptor;"

CHAIR SEATON objected for discussion.

MR. BANKS explained that proposed Amendment 4 would change the definition for an e-cigarette, as defined in Version W, to address the concern that vaping products do not always look like a cigarette, cigar, or pipe, and he offered descriptions for various vaping products. The proposed amendment would ensure that all vaping products, no matter the profile, would be included.

[4:16:01 PM](#)

REPRESENTATIVE TALERICO moved to adopt Conceptual Amendment 1 to Amendment 4, which on line 5, following "product" add "of any size or shape". There being no objection, Conceptual Amendment 1 to Amendment 4 was adopted.

REPRESENTATIVE TALERICO moved to adopt Conceptual Amendment 2 to Amendment 4, which, on line 7, following "descriptor;" add "e-cigarette does not include drugs, devices, or combination products authorized for sale by the U.S. Food and Drug Administration (USFDA) as those terms are defined in the Federal

Food, Drug, and Cosmetic Act, unless the use of those products simulates smoking or exposes others to vapor or aerosol;".

CHAIR SEATON objected for discussion.

REPRESENTATIVE TARR asked about the products offered for sale by the USFDA, and the intent of Conceptual Amendment 2.

[4:18:13 PM](#)

MR. BANKS responded that concern was expressed that the proposed Amendment 4 could be interpreted to include inhalers, which is not the intent. He suggested that adding a second clarifying sentence [to Conceptual Amendment 2] would ensure that products like inhalers would not inadvertently be included.

REPRESENTATIVE TARR questioned whether smoking cessation products are issued by prescription, and she further questioned whether nicotine patches, or other similar products, are considered smoking.

MR. BANKS opined that patches do have nicotine in them, and it would not simulate smoking and it would not expose non-users to vapor or aerosol. He added that he does not believe it would be included in this.

REPRESENTATIVE WOOL reflected on the definition in the original bill, which discusses exhaling and the effects of second hand breathing; noting that the proposed amendment does not address any "simulated burning." He mused that this amendment pertains to inhalation, which differs from conventional smoking, and represents a different public safety risk.

CHAIR SEATON opined that vaping is generally regarded as inhalation and the definition of an e-cigarette is the mechanism for initiating the vaping process.

[4:22:26 PM](#)

CHAIR SEATON removed his objection to Conceptual Amendment 2 to Amendment 4. There being no further objection, Conceptual Amendment 2 to Amendment 4 was adopted.

CHAIR SEATON removed his objection to Amendment 4. There being no further objection, Amendment 4, as amended, was adopted.

[4:23:49 PM](#)

The committee took an at-ease from 4:23 p.m. to 4:25 p.m.

CONFIRMATION HEARING(S)
State Medical Board

[4:25:25 PM](#)

CHAIR SEATON announced that the next order of business would be the confirmation hearings for appointees to the State Medical Board.

[4:25:56 PM](#)

JOY MARASCO NEYHART shared that she is a pediatrician and has practiced in Juneau for the past 16 years. In response to Representative Tarr, she said that her interest for serving is to represent Southeast and the children of Alaska, as well as moving forward with telemedicine in the state in a safe and appropriate way. She stated that telemedicine could "save a lot of money for the state."

[4:27:11 PM](#)

REPRESENTATIVE TALERICO moved to advance the confirmation of Joy Marasco Neyhart, appointee to the State Medical Board, to a joint session of the House and Senate for consideration. There being no objection, the confirmation was advanced.

REPRESENTATIVE TALERICO reminded members that signing the reports regarding appointments to board and commissions in no way reflects individual members' approval or disapproval of the appointees, and the nominations are merely forwarded to the full legislature for confirmation or rejection.

[4:27:49 PM](#)

GRANT THOMAS RODERER, M.D., said that he completed a pain medicine fellowship in 2000, and is currently practicing interventional pain management in Anchorage. He shared that his first appointment to the State Medical Board was in 2014, and he is seeking re-confirmation for an additional term. His interest in serving is to help adopt and carry out regulations for medical practice, assist in licensing qualified physicians, and discipline physicians who violate the licensing laws.

CHAIR SEATON asked about enforcement for the over-prescription use of opioids. He spoke about the requirement for physicians

to check the prescription drug database prior to writing a prescription, and to limit the initial prescription for opioids to seven days unless noted. He asked whether Dr. Roderer could see consequences for failure to utilize the data base and limit prescription opioid use.

DR. RODERER replied that the prescription database is a very good tool for medical personnel prescribing controlled substances, and that he uses it in his practice. He opined that its primary purpose is for control of substances when multi-sourcing medications for a patient who is prescribed similar drugs. He explained that the problem is the requirement for physicians to monitor the database, and there is concern for the discipline of physicians who choose to disregard the application. The degree of discipline remains a question, he said, and stated his belief that the database represents one tool to help manage the opioid medication problem.

CHAIR SEATON added that there may be an upcoming requirement for registration to the database.

[4:33:48 PM](#)

REPRESENTATIVE TALERICO moved to advance the confirmation of Grant Thomas Roderer, M.D., appointee to the State Medical Board, to a joint session of the House and Senate for consideration. There being no objection, the confirmation was advanced.

REPRESENTATIVE TALERICO reminded members that signing the reports regarding appointments to board and commissions in no way reflects individual members' approval or disapproval of the appointees, and the nominations are merely forwarded to the full legislature for confirmation or rejection.

[4:34:13 PM](#)

CAMILLE OLSON CARLSON reported that she has just completed a four year term on the State Medical Board, which she found to be very interesting, and, as she is now fully trained, feels she owes it to the state to fulfill another term; especially as three members are leaving the board. She stated her belief that it is very important for public members to serve on the board.

REPRESENTATIVE TARR noted that Ms. Carlson is the public member on the State Medical Board even though she comes with very little background in the health care industry, and she asked

whether she feels prepared to take on many of the new policy initiatives.

MS. CARLSON replied that she considers herself "extremely well prepared," and pointed out her background at university where she earned a degree in physical education and health, as well as her experience serving on other boards.

REPRESENTATIVE TARR asked whether Ms. Carlson has worked in a field related to physical education.

MS. CARLSON responded no, as she is a full time housewife raising three children.

[4:37:27 PM](#)

REPRESENTATIVE TALERICO moved to advance the confirmation of Camille Olson Carlson, appointee to the State Medical Board, to a joint session of the House and Senate for consideration. There being no objection, the confirmation was advanced.

REPRESENTATIVE TALERICO reminded members that signing the reports regarding appointments to board and commissions in no way reflects individual members' approval or disapproval of the appointees, and the nominations are merely forwarded to the full legislature for confirmation or rejection.

HB 328-REGULATION OF SMOKING

[4:38:23 PM](#)

CHAIR SEATON announced, as its final order of business, that the committee would return to HOUSE BILL NO. 328, "An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

[Before the committee was proposed committee substitute (CS) for HB 328, Version 29-LS1502\W, Martin, 3/18/16, adopted as a working document on 3/24/16.]

[4:38:31 PM](#)

CHAIR SEATON moved to adopt Amendment 5, labeled 29-LS1502\W.6, Martin, 3/29/16, which read:

Page 1, following line 3:

Insert a new bill section to read:

"* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature that nothing in this Act is intended to alter applicable law relating to liability of a manufacturer, dispenser, or other person for a cause of action that may arise from smoking tobacco, e-cigarettes, or other oral smoking devices in an enclosed area or to otherwise limit the state immunity from liability provided for in state law. In this section, "e-cigarette," "enclosed area," and "smoking" have the meanings given to those terms in AS 18.35.399."

Page 1, line 4:

Delete "**Section 1**"

Insert "**Sec. 2**"

Renumber the following bill sections accordingly.

Page 10, line 5:

Delete "sec. 1"

Insert "sec. 2"

Page 10, line 6:

Delete "secs. 2 - 4"

Insert "secs. 3 - 5"

Delete "secs. 5 - 8"

Insert "secs. 6 - 9"

Page 10, line 7:

Delete "sec. 9"

Insert "sec. 10"

Delete "sec. 10"

Insert "sec. 11"

Page 10, line 8:

Delete "sec. 11"

Insert "sec. 12"

Delete "sec. 12"

Insert "sec. 13"

Page 10, line 10:

Delete "secs. 1 - 12"

Insert "secs. 2 - 13"

Page 10, line 15:
Delete "sec. 1"
Insert "sec. 2"

Page 10, line 16:
Delete "secs. 2 - 4"
Insert "secs. 3 - 5"
Delete "secs. 5 - 8"
Insert "secs. 6 - 9"

Page 10, line 17:
Delete "sec. 9"
Insert "sec. 10"

Page 10, lines 17 - 18:
Delete "sec. 10"
Insert "sec. 11"

Page 10, line 18:
Delete "sec. 11"
Insert "sec. 12"

Page 10, line 19:
Delete "sec. 12"
Insert "sec. 13"

Page 10, line 21:
Delete "Section 15"
Insert "Section 16"

Page 10, line 22:
Delete "sec. 16"
Insert "sec. 17"

REPRESENTATIVE TALERICO objected for discussion.

[4:38:42 PM](#)

CHAIR SEATON explained that this intent language is to ensure that nothing in the act allows smoking in certain indoor or other specific locations, and it offers no immunity from liability to a manufacturer, dispenser, or other person, from any cause of action related to smoking or e-cigarettes or other oral smoking devices, and their use in an enclosed area.

[4:39:46 PM](#)

REPRESENTATIVE TALERICO removed his objection. There being no further objection, Amendment 5 was adopted.

[4:40:42 PM](#)

The committee took a brief at-ease.

[4:41:07 PM](#)

REPRESENTATIVE TARR moved to adopt Amendment 6, labeled 29-LS1502\W.8, Martin, 3/30/16, which read:

Page 3, line 14, following "residence":

Insert ", or if the store is not in a freestanding building, the store has a ventilation system that is separate from other businesses or residences in or attached to the same building"

CHAIR SEATON objected for discussion.

REPRESENTATIVE TARR expressed concern for the impact of these provisions on existing businesses. She offered an example of buffer zones around schools that restrict sales of alcohol, although any existing businesses would have been grandfathered in. She noted that most vaping shops currently allow smoking or testing of the product, and many are located in strip malls. These businesses may find it difficult to remain open, she cautioned, and said it is hard to understand the scope of these provisions; hence, the proposed amendment is an attempt to strike a middle ground. She reported having made inquiries to businesses who expressed a myriad of concerns for the impacts of vapors and odors. She stated her belief that the existing businesses would be subject to the new provisions, and would not be grandfathered in under this bill. Empty store fronts represent an open invitation for negative activities including vandalism and loitering. In her district, she said, active businesses often maintain security cameras, which cut down on vandalism and public nuisance individuals. It remains unclear whether the proposed amendment will strike the right balance, she opined, and questioned if it could be in conflict with a previous amendment. There is also a lack of clarity for a business operating as both a retail outlet and a lounge for product consumption, and whether that business would have the ability to prove that it was effectively closed down because the law was changed so significantly that it became impossible to keep its doors open. She acknowledged that her district hosts a high number of strip malls.

[4:46:13 PM](#)

MS. MARTIN said the proposed bill would impact any locale where smoking is currently permitted which is not a freestanding building. While the proposed bill does not literally shut a business down, the questions posed are complicated and require further research.

REPRESENTATIVE FOSTER offered his understanding that malls usually install heating, ventilation and air conditioning (HVAC) systems which are not adequate, thus, the proposed amendment requires a clear definition.

CHAIR SEATON directed attention to the committee packet and the images showing the interiors of several vape shops. He questioned whether any ventilation system would have a positive effect on the conditions depicted. He said the proposed amendment references both traditional cigarettes, as well as vaping, and any common entrance with other businesses would be problematic. He noted that there is enough information on second hand smoke to identify this as a problem.

REPRESENTATIVE TALERICO expressed appreciation for the level of concern for the business community. The bill is an attempt to protect people in the work environment from second hand smoke. It is questionable whether a ventilation system, recycling inside air, could successfully protect occupants in a shared building, he opined, and stated opposition for the proposed amendment.

REPRESENTATIVE WOOL questioned the location and accuracy of the images, as they appear to depict a "horrible second hand smoke environment."

REPRESENTATIVE FOSTER offered that discussion on this point could be continued in the next committee of referral, House Judiciary Standing Committee, which may produce a more supportable version of the bill.

CHAIR SEATON suggested that the House Judiciary Standing Committee could best address the "grandfathering" issue.

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CHAIR SEATON maintained his objection.

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REPRESENTATIVE TARR agreed that the proposed amendment is beyond the purview of the committee as it's not specific to the health aspect. She expressed her concern with smoking in general and its relationship to health, and said that this issue is worth considering in order to avoid any unintended consequences and legal challenges. She reiterated the relevance for these issues in her district because of the prevalence of strip malls, and their locations, and reminded the committee that it is better to have an on-going business than a vacant store front. She acknowledged that these issues could be addressed in the House Judiciary Standing Committee.

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REPRESENTATIVE TARR withdrew proposed Amendment 6.

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REPRESENTATIVE WOOL directed attention to page 2, line 27, of Version W, to ask about the required [smoking prohibition] 20 feet from a business entrance or 10 feet from the entrance to a bar or restaurant. He offered an example of the difficulty to find a smoking area when there is only a 20 foot distance between doors, and asked if this could prohibit smoking anywhere on a given length of sidewalk, possibly forcing a person to smoke in the roadway.

MR. KOPP responded that the proposed bill fully aligns with the Anchorage Smoke-Free ordinance. He acknowledged that the point raised by Representative Wool is a judgement call that could necessitate a walk to the other side of the street. The point is to take it outside, he said, and suggested that there is judgement in any enforcement action; this is a complaint driven enforcement system with no active patrol; people smoking outside are trying to comply.

CHAIR SEATON expressed interest in having the House Judiciary Standing Committee also review this issue, pointing out that the 20 foot requirement includes maintaining a distance from any window, heating, or air ventilation intake.

MR. KOPP explained that the distance notification is not required if the property has otherwise been declared and posted by the owner to be a smoke free campus. He acknowledged that the required distance in front of a bar is only 10 feet, whereas

other work places are to adhere to the more significant 20 foot allowance.

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REPRESENTATIVE VAZQUEZ asked if there is any scientific evidence regarding the ill effects of e-cigarettes.

MR. KOPP directed attention to the committee packet, and the document from the Alaska Division of Epidemiology, under the Department of Health and Social Services, reporting on the harms of e-cigarette use in Alaska; particularly the impact on youth. The findings indicate a resurgence in nicotine addiction due to the corresponding popular surge for the use of e-cigarettes, which he characterized as a delivery device for smoking anything. The numerous report attachments review the effects of e-cigarettes, although the FDA has yet to issue a final regulation. The previous decline in nicotine use by the young populace, has been reversed by an explosive rise, which is directly acquainted to e-cigarette advertising and use, he finished. He clarified that the increased usage is for nicotine as it is delivered via an e-cigarette device.

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REPRESENTATIVE TALERICO moved to report CSHB 328, Version 29-LS1502\W, Martin, 3/18/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes.

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REPRESENTATIVE VAZQUEZ objected and said that, as initially proposed, the bill was supportable. However, on closer scrutiny, and in its current version, it represents over reach, she opined. She said that, although she has no problem with prohibiting smoking in enclosed places, such as hospitals and schools, she does object to prohibiting smoking in outdoor areas and said that the 20 foot prohibition seems "to be a bit much." Neither is there enough scientific evidence to include a ban on e-cigarettes at this time, she finished.

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A roll call vote was taken. Representatives Talerico, Wool, Tarr, Foster, and Seaton voted in favor of reporting CSHB 328, Version 29-LS1502\W, Martin, 3/18/16, as amended, out of committee. Representatives Vazquez voted against it.

Therefore, CSHB 328(HSS) was reported out of the House Health and Social Services Standing Committee by a vote of 5-1.

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ADJOURNMENT

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