

**ALASKA STATE LEGISLATURE  
HOUSE JUDICIARY STANDING COMMITTEE**

April 5, 2016

1:05 p.m.

**MEMBERS PRESENT**

Representative Gabrielle LeDoux, Chair  
Representative Wes Keller, Vice Chair  
Representative Bob Lynn  
Representative Matt Claman  
Representative Jonathan Kreiss-Tomkins

**MEMBERS ABSENT**

Representative Neal Foster  
Representative Charisse Millett  
Representative Kurt Olson (alternate)

**COMMITTEE CALENDAR**

HOUSE BILL NO. 339

"An Act relating to arson in the third degree."

- MOVED HB 339 OUT OF COMMITTEE

HOUSE BILL NO. 194

"An Act repealing and reenacting the Alaska Securities Act, including provisions relating to exempt securities and transactions; relating to registration of securities, firms, and agents that offer or sell securities and investment advice; relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; allowing certain civil penalties to be used for an investor training fund; establishing increased civil penalties for harming older Alaskans; retaining provisions concerning corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure; and providing for an effective date."

- MOVED CSHB 194(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 205

"An Act relating to conditions of release; relating to community work service; relating to credit toward a sentence of imprisonment for certain persons under electronic monitoring; relating to the restoration under certain circumstances of an

administratively revoked driver's license, privilege to drive, or privilege to obtain a license; allowing a reduction of penalties for offenders successfully completing court-ordered treatment programs for persons convicted of driving under the influence; relating to termination of a revocation of a driver's license; relating to restoration of a driver's license; relating to credits toward a sentence of imprisonment, to good time deductions, and to providing for earned good time deductions for prisoners; relating to early termination of probation and reduction of probation for good conduct; relating to the rights of crime victims; relating to the disqualification of persons convicted of certain felony drug offenses from participation in the food stamp and temporary assistance programs; relating to probation; relating to mitigating factors; relating to treatment programs for prisoners; relating to the duties of the commissioner of corrections; amending Rule 32, Alaska Rules of Criminal Procedure; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 339

SHORT TITLE: MOTOR VEHICLE ARSON

SPONSOR(s): JUDICIARY

02/24/16	(H)	READ THE FIRST TIME - REFERRALS
02/24/16	(H)	JUD, FIN
04/01/16	(H)	JUD AT 1:00 PM GRUENBERG 120
04/01/16	(H)	<Bill Hearing Canceled>
04/05/16	(H)	JUD AT 1:00 PM GRUENBERG 120

BILL: HB 194

SHORT TITLE: AK SECURITIES ACT; PENALTIES; CRT. RULES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/13/15	(H)	READ THE FIRST TIME - REFERRALS
04/13/15	(H)	L&C, JUD, FIN
02/01/16	(H)	L&C AT 3:15 PM BARNES 124
02/01/16	(H)	Heard & Held
02/01/16	(H)	MINUTE (L&C)
02/08/16	(H)	L&C AT 3:15 PM BARNES 124
02/08/16	(H)	-- MEETING CANCELED --
02/10/16	(H)	L&C AT 3:15 PM BARNES 124
02/10/16	(H)	<Bill Hearing Canceled>
02/12/16	(H)	L&C AT 3:15 PM BARNES 124
02/12/16	(H)	<Bill Hearing Canceled>

02/13/16 (H) L&C AT 10:00 AM BARNES 124  
02/13/16 (H) <Bill Hearing Canceled>  
03/14/16 (H) L&C AT 3:15 PM BARNES 124  
03/14/16 (H) Heard & Held  
03/14/16 (H) MINUTE (L&C)  
03/23/16 (H) L&C AT 3:15 PM BARNES 124  
03/23/16 (H) Moved CSHB 194(L&C) Out of Committee  
03/23/16 (H) MINUTE (L&C)  
03/24/16 (H) L&C RPT CS(L&C) NT 1DP 5NR 1AM  
03/24/16 (H) DP: OLSON  
03/24/16 (H) NR: TILTON, HUGHES, KITO, JOSEPHSON,  
LEDOUX  
03/24/16 (H) AM: COLVER  
04/04/16 (H) JUD AT 1:00 PM GRUENBERG 120  
04/04/16 (H) Heard & Held  
04/04/16 (H) MINUTE (JUD)  
04/05/16 (H) JUD AT 1:00 PM GRUENBERG 120

**WITNESS REGISTER**

KALYSSA MAILE, Staff  
Representative Gabrielle LeDoux  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 339 on behalf of the House  
Judiciary Standing Committee, sponsor by request, chaired by  
Representative LeDoux.

KEVIN ANSELM, Director  
Division of Banking and Securities  
Department of Commerce, Community & Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** During the hearing of HB 194, answered  
questions.

**ACTION NARRATIVE**

[1:05:31 PM](#)

**CHAIR GABRIELLE LEDOUX** called the House Judiciary Standing  
Committee meeting to order at 1:05 p.m. Representatives Kreiss-  
Tomkins, Lynn, Claman, Keller, and LeDoux were present at the  
call to order.

**HB 339-MOTOR VEHICLE ARSON**

[1:06:06 PM](#)

CHAIR LEDOUX announced that the first order of business would be HOUSE BILL NO. 339, "An Act relating to arson in the third degree."

[1:06:52 PM](#)

KALYSSA MAILE, Staff, Representative Gabrielle LeDoux, Alaska State Legislature, explained that the intent of the bill is to make arson crimes consistent. Currently, under state law, she offered, if a person lights a car on fire on state or municipal land it is considered third degree arson, but if it is on private land it is third degree criminal mischief. They are both class C felonies so the punishment is consistent; however, she pointed out that for the sake of arson and fire investigators, it is helpful that they are able to review a person's criminal record to determine who may be a suspect. Therefore, HB 339 expands third degree arson to include fires set on private land so these cases can be charged with third degree arson.

[1:08:11 PM](#)

REPRESENTATIVE CLAMAN noted that this bill only applies to vehicles, and a shed that exploded would be something different.

[1:08:54 PM](#)

MS. MAILE responded that third degree arson is a bit narrower than first and second degree arson which are broader and more serious crimes. The bill was drafted specifically to address cars being lit on fire on public land, she said.

CHAIR LEDOUX opened public testimony. After ascertaining that no one wished to testify, closed public testimony.

[1:10:25 PM](#)

CHAIR LEDOUX commented that the fire chiefs requested this bill and Representative Max Gruenberg was working on it because it was important to him. She advised that she is considering naming the bill after Representative Gruenberg.

[1:11:21 PM](#)

REPRESENTATIVE KELLER moved to report HB 339, labeled 29-LS1517\W out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 339 passed from the House Judiciary Standing Committee.

[1:11:38 PM](#)

The committee took an at ease from 1:11 p.m. to 1:15 p.m.

**HB 194-AK SECURITIES ACT; PENALTIES; CRT. RULES**

[1:15:08 PM](#)

CHAIR LEDOUX announced that the next order of business would be HOUSE BILL NO. 194, "An Act repealing and reenacting the Alaska Securities Act, including provisions relating to exempt securities and transactions; relating to registration of securities, firms, and agents that offer or sell securities and investment advice; relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; allowing certain civil penalties to be used for an investor training fund; establishing increased civil penalties for harming older Alaskans; retaining provisions concerning corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure; and providing for an effective date."

[1:16:05 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to adopt Amendment 1, Version 29-GH1060\N.1, Bannister, 4/5/16, which read:

Page 1, line 7, following "**older persons**":  
Insert "**and vulnerable adults**"

Page 79, line 29, following "older person":  
Insert "or a vulnerable adult"

Page 79, line 31, following "older person":  
Insert "or a vulnerable adult"

Page 80, line 5, following "older person":  
Insert "or a vulnerable adult"

Page 80, line 6, following "older person":  
Insert "or a vulnerable adult"

Page 81, line 27, following "older person":  
Insert "or a vulnerable adult"

Page 81, line 29, following "older person":  
Insert "or a vulnerable adult"

Page 82, line 1, following "older person":  
Insert "or a vulnerable adult"

Page 82, line 3, following "person":  
Insert "or a vulnerable adult"

Page 100, line 29, following "States":  
Insert ";

(36) "vulnerable adult" means a person 19 years of age or older who, because of incapacity, mental illness, mental deficiency, physical illness, physical disability, advanced age, chronic use of drugs, chronic intoxication, fraud, confinement, or disappearance, is unable to meet the person's own needs or to seek help without assistance"

CHAIR LEDOUX objected.

[1:16:17 PM](#)

REPRESENTATIVE KREISS-TOMKINS explained that Amendment 1 broadens the bill's class of vulnerable persons and creates a definition of vulnerable adult. Therefore, he advised, vulnerable people, if taken advantage of, incur the ability that treble damages to be awarded.

REPRESENTATIVE KELLER asked whether the definition was taken from a statute because it looks familiar.

REPRESENTATIVE KREISS-TOMKINS responded that it came from the National Association of Security or other industry regulatory materials. He then deferred to Kevin Anselm.

[1:17:55 PM](#)

KEVIN ANSELM, Director, Division of Banking and Securities, Department of Commerce, Community & Economic Development, responded that the definition provided within Amendment 1 is contained within Alaska Statutes, AS 47.24.900(21).

CHAIR LEDOUX said she agrees until line 9, "or disappearance," in that she does not understand the disappearance wording because if they've disappeared, they can't be sold securities.

MS. ANSELM related that she had not vetted this particular definition.

CHAIR LEDOUX asked her to restate the citation.

MS. ANSELM replied AS 47.24.900(21).

[1:19:46 PM](#)

MS. ANSELM offered her interpretation that when it comes up in a case, it would extend the opportunity for treble damages to not only persons 60 years or older, but also to vulnerable adults. A vulnerable adult can be someone who has disappeared, according to this definition, but she said she does not know the underlying information about the disappearance. She said it could be that someone who has disappeared fits into this definition and then the estate would be able to go after the treble damages, but perhaps the sponsor of the amendment has other thoughts on that.

[1:20:46 PM](#)

REPRESENTATIVE KREISS-TOMKINS said he does not have thoughts on that.

CHAIR LEDOUX asked whether Kristy Naylor or Renee Wardlaw have thoughts regarding the reason the term "disappearance" is included.

MS. ANSELM offered that the term "disappearance" is taken directly from Alaska Statute.

CHAIR LEDOUX stated that she understands that, but if there has been a mistake the first time around it will be repeated in all of the other statutes from here on out. She reiterated that she wants to understand why the term "disappearance" is included.

REPRESENTATIVE CLAMAN suggested a brief at ease to research the statute.

[1:21:57 PM](#)

The committee took an at-ease from 1:21 p.m. to 1:28 p.m.

1:28:22 PM

CHAIR LEDOUX announced she is setting Amendment 1 aside until Representative Kreiss-Tomkins returns.

1:28:29 PM

REPRESENTATIVE CLAMAN moved to adopt Amendment 2, Version 29-GH1060\N.2, Bannister, 4/5/16, which read:

Page 27, line 12:  
Delete "\$5,000"  
Insert "\$10,000"

REPRESENTATIVE KELLER objected.

1:28:39 PM

REPRESENTATIVE CLAMAN explained that Amendment 2 relates to crowdfunding and the limit on a single investor or purchaser on what is technically called "Small Intra-state Securities Offerings," or crowdfunding. Amendment 2 raises the limit for a single investor from \$5,000 to \$10,000, he said. He opined that the \$10,000 amount is more entrepreneur friendly and makes it easier for someone with a start-up business to work within the limits of the \$1 million that can be raised through crowdfunding. He related that the \$5,000 limit is paternalistic in suggesting that people should only be able to invest in these on an individual basis at a \$5,000 level. Otherwise, he explained, the entrepreneur must go to a different structure to create their investment framework. He opined that Amendment 2 does not put the investor at any greater risk than they would be at the \$5,000 level.

1:31:08 PM

REPRESENTATIVE KELLER inquired where Representative Claman looked to choose the number \$10,000. He noted that he is not familiar with this process and asked why not just delete paragraph (4).

REPRESENTATIVE CLAMAN deferred to Kevin Anselm to answer the question regarding deleting paragraph (4). He related that people from Fairbanks had seen other states with limits such as, \$2,000, \$7,500 and \$10,000. He offered that he concluded \$10,000 made more sense, both in terms of being more supportive

of the entrepreneur attempting to obtain the crowdfunding, and also the typical person being approached with the means to invest \$10,000 is an area the person would be capable of performing their own due diligence. He opined that the \$5,000 limit would create more limits than necessary.

MS. ANSELM said the division has no objection to the \$10,000 level.

[1:32:46 PM](#)

REPRESENTATIVE KELLER asked why include paragraph (4), what is the background and concern, what is the state protecting itself from that the highest number in the nation is \$10,000, and what are the ramifications of it.

MS. ANSELM responded that the crowdfunding piece is designed to fall under a federal exemption, it is an instate crowdfunding wherein investors can invest small amounts of money into a project that is no larger than \$1 million. She explained that there are lesser requirements for disclosures, not a requirement for audited financial statements, and the disclosure documents do not have to be as extensive as other investments that would allow a higher investment. It must coordinate with the federal law which is a limit of \$1 million and anything above \$1 million, and anything that reaches outside of the state's borders, is covered under federal acts. She noted there is a federal crowdfunding now that is available as of May but it requires that an entrepreneur can't just offer the securities themselves in any sort of public solicitation, it must be done through a portal or a stock brokerage. She related that the design of the crowdfunding has evolved through the states due to provisions in the Dodd-Frank Act, and the Securities and Exchange Commission had not come up with the rules yet to allow intrastate crowdfunding. Therefore, the fact that it is supposed to be small investment amounts to reduce the risk fits under that federal ceiling.

[1:35:05 PM](#)

REPRESENTATIVE KELLER removed his objection.

REPRESENTATIVE KREISS-TOMKINS asked Representative Claman how \$10,000 compares to limits that may exist in other states.

[1:35:36 PM](#)

REPRESENTATIVE CLAMAN offered that what was explained by Ms. Anselm with the administration, that when they looked at the crowdfunding limits on a per investor basis the most protective states of investors were at the \$2,000 level, and the maximum in other states was \$10,000. He reiterated that Alaska's crowdfunding investors are typically sophisticated investors and the investor looking at these projects would be good on their own due diligence. He opined that limiting an entrepreneur to \$5,000 may hinder their ability to raise funds.

CHAIR LEDOUX asked whether the division has a position on this issue.

MS. ANSELM answered that the division does not object.

[1:36:41 PM](#)

CHAIR LEDOUX removed her objection to Amendment 2. There being no objection, Amendment 2 was adopted.

[1:36:59 PM](#)

CHAIR LEDOUX returned the committee to Amendment 1.

CHAIR LEDOUX reminded the committee that it was attempting to determine the origin of the term "disappearance." She related that she likes the amendment and does not see a need to hold the bill while trying to determine the above in the event no one objects to the inclusion of Amendment 1 in the bill and moving forward. Chair LeDoux directed Representative Kreiss-Tomkins to follow through and research why the word "disappearance" was included, whether it makes sense to be included, and if it doesn't make sense to see whether in its latter stages it can be removed.

[1:37:44 PM](#)

REPRESENTATIVE KREISS-TOMKINS responded absolutely, and apologized for personifying the meaning of that word. He suggested amending out the term "disappearance" and then adding it in later in a different committee if necessary.

CHAIR LEDOUX pointed out that the term has been used in statute and she feels comfortable leaving it in with Representative Kreiss-Tompkins determining why it was there in the first place.

REPRESENTATIVE KREISS-TOMKINS agreed and said he will eagerly report back to the committee with the results.

1:38:31 PM

CHAIR LEDOUX removed her objection to Amendment 1. There being no objection, Amendment 1 was adopted.

1:38:50 PM

REPRESENTATIVE CLAMAN moved to report CSHB 194(L&C), Version 29-GH1060\N, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 194(JUD) passed from the House Judiciary Standing Committee.

1:39:18 PM

**ADJOURNMENT**

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:39 p.m.