

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 14, 2016

2:35 p.m.

MEMBERS PRESENT

Representative Gabrielle LeDoux, Chair
Representative Neal Foster
Representative Bob Lynn
Representative Matt Claman
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

Representative Wes Keller, Vice Chair
Representative Charisse Millett
Representative Kurt Olson (alternate)

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 165(JUD) AM

"An Act relating to the presence of minors in the licensed premises of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to background checks for persons applying to operate marijuana establishments; relating to the offense of minor consuming; relating to revocation of a driver's license for a minor consuming offense; relating to the effect of the revocation of a driver's license for a minor consuming offense on a motor vehicle liability insurance policy; and amending Rule 17, Alaska Rules of Minor Offense Procedure."

- MOVED HCS CSSB 165(L&C) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 165

SHORT TITLE: ALCOHOL: BOARD; MINORS; MARIJUANA CHECKS

SPONSOR(s): SENATOR(s) MICCICHE

02/01/16	(S)	READ THE FIRST TIME - REFERRALS
02/01/16	(S)	L&C, JUD
02/11/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/11/16	(S)	Scheduled but Not Heard
02/23/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/23/16	(S)	Heard & Held

02/23/16 (S) MINUTE (L&C)
03/08/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/08/16 (S) Moved CSSB 165(L&C) Out of Committee
03/08/16 (S) MINUTE (L&C)
03/09/16 (S) L&C RPT CS 5DP SAME TITLE
03/09/16 (S) DP: COSTELLO, GIESSEL, MEYER, STEVENS,
ELLIS
03/23/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/23/16 (S) <Bill Hearing Canceled>
03/28/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/28/16 (S) Heard & Held
03/28/16 (S) MINUTE (JUD)
03/30/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
03/30/16 (S) Moved CSSB 165(JUD) Out of Committee
03/30/16 (S) MINUTE (JUD)
04/01/16 (S) JUD RPT CS 2DP 3NR NEW TITLE
04/01/16 (S) DP: MCGUIRE, MICCICHE
04/01/16 (S) NR: COGHILL, WIELECHOWSKI, COSTELLO
04/08/16 (S) TRANSMITTED TO (H)
04/08/16 (S) VERSION: CSSB 165(JUD) AM
04/09/16 (H) READ THE FIRST TIME - REFERRALS
04/09/16 (H) L&C, JUD
04/13/16 (H) L&C AT 3:15 PM BARNES 124
04/13/16 (H) Heard & Held
04/13/16 (H) MINUTE (L&C)
04/14/16 (H) L&C AT 9:00 AM BARNES 124
04/14/16 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

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

POSITION STATEMENT: During the hearing of SB 165, presented the bill on behalf of Senator Micciche, prime sponsor.

ROBIN MINARD, Director
Public Affairs
Matsu Health Foundation
Wasilla, Alaska

POSITION STATEMENT: During the hearing on SB 165, offered support for the legislation.

DALE FOX, President/CEO
Alaska Cabaret, Hotel, Restaurant and Retailers Association
(CHARR)

Anchorage, Alaska

POSITION STATEMENT: During the hearing of SB 165, offered support for the legislation.

ACTION NARRATIVE

[2:35:26 PM](#)

CHAIR GABRIELLE LEDOUX called the House Judiciary Standing Committee meeting to order at 2:35 p.m. Representatives Claman, Foster, Lynn and LeDoux were present at the call to order. Representatives Kreiss-Tomkins arrived as the meeting was in progress.

SB 165-ALCOHOL: BOARD; MINORS; MARIJUANA CHECKS

[2:35:55 PM](#)

CHAIR LEDOUX announced that the only order of business would be CS FOR SENATE BILL NO. 165(JUD) am, "An Act relating to the presence of minors in the licensed premises of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to background checks for persons applying to operate marijuana establishments; relating to the offense of minor consuming; relating to revocation of a driver's license for a minor consuming offense; relating to the effect of the revocation of a driver's license for a minor consuming offense on a motor vehicle liability insurance policy; and amending Rule 17, Alaska Rules of Minor Offense Procedure."

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CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, explained that this bill brings balance to the Alcoholic Beverage Control Board (ABC Board) by decriminalizing youth possession and consumption offenses by keeping these offenses off of CourtView, if they are not joined with any other criminal offense. It puts proper accountability measures in place by opening up new horizons and opportunities for those youth under 21 years of age who make a mistake consuming or possessing alcohol. He offered that this is a product of an ongoing multi-year review, which began in 2012, with stakeholders from public safety, public health, law, and the industry coming together to address Title 4, Alaska alcohol laws that haven't been updated since 1980. Today, there are

breweries, craft brew beers, brewery to table, and tastings that were not conceived of when first drafting Alaska's laws and in many ways the laws are outdated for the practice of the industry today. Currently, Alaska has over 8,000 hours of stakeholder work into this group, and the group is continuing to review how Alaska's laws relate to the licensees, the role of the board, underage drinking, and internet sales, of which the sponsor plans to bring forward in a secondary bill next year. Currently, he advised, the board has three public members, one represents rural Alaska, with two industry members, and the key features of this bill is the five member ABC Board structure. Under the proposition of this bill it continues to retain two industry members, one public safety seat, one rural public member, and one general public member. He related that this composition has the support of the diverse stakeholder group which includes, the Alaska Cabaret, Hotel, Restaurant and Retailers Association (Alaska CHARR), and the voice of the alcohol industry. The bill sponsor became involved to address the under 21 alcohol status offense penalties that burden a youth's future ability to possess a driver's license, gain employment, join the military, or obtain employment. He pointed out that having an alcohol offense on their record, because they were 20 years of age, can often stop the above consequences dead in their tracks, and the science and data show that minors do worse under this current program, not better.

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MR. KOPP put forth that the stakeholders of the group, which includes public safety and prosecutors, identified the value of rehabilitation over punishment for young people who are still developing values and forming their behavioral patterns, and the need to support success rather than contribute to barriers that promote failure. He explained it restores the under age 21 alcohol status offenses to true violations of law and removes them as criminal penalties. It establishes a fine of \$500 that may be reduced by the court to \$50 if, not less than six month after conviction the person provides proof of completion of an alcohol safety action program or a community diversion panel. The proof of completion includes youth courts and tribal circles which often are more culturally relevant and provide far more successful outcomes. It provides that these simple minor consuming violations will stay off of CourtView, which has caused many youth to be denied employment opportunities, and it clarifies that youth are allowed to play and work on golf courses that serve alcohol as long as certain criteria is met, depending on the age of the minor. He explained that this bill

requires background checks on marijuana establishment licensee, the same as is now required of alcohol licensees. He pointed out that the sponsor is appreciative of Alaska CHARR, Alaska Mental Health Trust Authority, Children's Trust, Wellness Coalition, Mat-Su Health Foundation, Providence Hospital, Seward Prevention Council, Recover Alaska, and the Rasmuson Foundation for supporting this work over the past three years. He noted that the minor consuming law revisions are supported by the Alaska Peace Officers Association.

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MR. KOPP then began his sectional summary, and explained that Section 1, [AS 04.06.020(a)] is current law establishing five members appointed by the governor, and confirmed by a majority of the members in joint session of the legislature. He then explained that page 2 shows the new structure of the board with two industry members, one rural public member, one regular public member, and one public safety member. It further identifies definitions, such as, how to identify immediate family members, what is public health sector, what is public safety sector, gives definitions for rural areas, and sets a population limit.

[2:42:01 PM](#)

CHAIR LEDOUX asked how the composition of the Alcoholic Beverage Control Board (ABC Board) under this bill, differs from the previous composition of the ABC Board.

MR. KOPP explained that, previously, there were three public members with one member representing rural Alaska, and two industry members. Under this bill there are two industry members, one rural public member, one general public member, and one public safety member which, he pointed out, adds a public safety designated seat.

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REPRESENTATIVE FOSTER asked what area the person, currently representing rural Alaska, represents.

MR. KOPP responded that he does not know, but offered that when the stakeholder group looked at the population, they designed it so rural area would include a population of 7,000 individuals or less, not connected by road or rail. The intention, he explained, was to capture Alaska's largest rural areas, such as

Bethel, recognizing also that people sometimes will move into town to have a better opportunity to help serve their people back home. The stakeholders did not want to preclude someone who may be a real leader so they wrote a requirement that the person must have lived there physically within the last five years to qualify as having rural representation. That way, he explained, someone wouldn't be disqualified because they sought a place of service elsewhere, and it also gives the board and the governor discretion to determine whether they are still, in fact, connected to that rural area.

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REPRESENTATIVE FOSTER recalled that this issue came up in years past, wherein someone may have lived in Bethel and moved to Anchorage and were still serving. He opined under this provision a person could still serve, such that they may have been living in Anchorage for four years, which would still be within the five year period.

MR. KOPP pointed out that the bill also says "at the time of appointment or re-appointment," and if they are re-appointed it could be an issue at that point.

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REPRESENTATIVE KREISS-TOMKINS referred to the parameters set aside for the rural member and the definition for rural being 7,000 and not connected by road or rail to Fairbanks or Anchorage, and noted that Bethel's population was 6,000 in a 2010 census, and 6,400 in an American Communities Survey in 2014. The population growth could possibly exceed 7,000 in the 2020 census and be, inadvertently, excluded as being part of rural Alaska. He suggested nudging the number up a bit and by doing so, he opined, it would not inadvertently include any other community in the state.

MR. KOPP replied that it is difficult to project as there is an overall 1.5 percent state growth, and he was unaware how many years it would take to get to that number, but the law is always subject to change. In going through the Title 4 process and speaking with stakeholders and those from rural Alaska, he said he would like to see that recommendation come up through that process. He noted that if there was a concern, the sponsor would definitely be hearing from that group if they felt they were being left out, and he agreed that populations change.

This number was raised from the previous number of 6,000, he said.

CHAIR LEDOUX pointed out that this bill is a carefully worked out compromise with the various stakeholder groups, and one never knows when one pulls a thread out what could happen. She then referred to "community" under the bill and offered a scenario of a community of 6,500 people, which is a city, but that city is in a borough, and she asked how that works exactly because possibly the borough has quite a few more people.

MR. KOPP referred to [Section 1, AS 04.06.020(d)(4)(A), page 2], line 27, which read:

(A) "community" means a city as that term is defined in AS 29.71.800, and an established village that is located in a borough or the unorganized borough;

MR. KOPP explained that it is worded in a manner to recognize that that is probably how those would happen, such that they would be from smaller governmental units inside larger units. The term community is broad and recognizes that it is a city or an established village located in an established village located in a borough or unorganized borough. He opined that the term community is only used when it is describing what a rural area is ...

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CHAIR LEDOUX interjected, used Kodiak as an example, and opined that the population of Kodiak is roughly 7,000 people, located in the Kodiak Island Borough where there are smaller villages that require an air flight or boat. Although, she said, there is the whole community of Kodiak which is approximately 10,000 - 11,000 people not including the villages. The City of Kodiak has roughly 6,500 - 7,000 people, she asked whether, under this definition, Kodiak would fall under rural.

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MR. KOPP opined that it would not, because as a city, if the population was over 7,000, it would not.

CHAIR LEDOUX extended her scenario and offered that Kodiak was 6,500.

MR. KOPP answered that it would definitely ...

REPRESENTATIVE CLAMAN interrupted and said that according to google it is 6,423.

CHAIR LEDOUX continued that the City of Kodiak has 6,423 people, and the City of Kodiak is within the Kodiak Island Borough. The Kodiak Island Borough, she opined, has approximately 11,000 - 12,000 people, not including the villages which are only accessible by airplane or boat. She asked whether Kodiak would qualify as rural under this bill.

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MR. KOPP opined that it absolutely would qualify based on the fact that it is a community unto itself, and it is identified as a city that is under the population limits. He further opined that all of the individual cities on Kodiak Island would also qualify, individually, because they are so small.

REPRESENTATIVE FOSTER explained that in an effort to try to not unravel the thread, he pointed to [Section 1, AS 04,06,020(b), page 2, lines 3-6], which read:

(b) Except as provided in (c) of this section, at the time of appointment or reappointment ... one member of the board shall have resided in a rural area within the previous five years,

REPRESENTATIVE FOSTER noted that, technically, there could be someone who lived in a rural area four years ago and still be appointed and represent a rural area. He explained that if he had written it he would have said, "at the time of appointment one member shall reside in a rural area," that way if they are no longer in that rural area and come up for reappointment they would not be eligible for reappointment.

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MR. KOPP replied that the discussion did come up within the work group, and the thought was that a person, a real community leader, moves out of rural Alaska for an opportunity to better serve rural interests, they would be disqualified.

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MR. KOPP moved to his written sectional summary, as follows [original punctuation provided]:

Section 2 - In AS 04.06.030, Terms of office; chair - changes "chairman" to "chair".

Section 3 - In AS 04.06.050, Meetings - changes "chairman" to "chair".

Section 4 - Amends AS 04.16.049(a), relating to access by minors to licensed premises; adds a reference to 04.11.110 permitting access to club premises by a person under 21 years of age if no alcoholic beverages are present or if the person has an active duty military card; changes "age of 21 years" to "21 years of age" to conform to current drafting style, and; identifies circumstances under which minors may be employed on licensed premises.

Section 5 - Amends AS 04.16.049(b), changing "age of 21 years" to "21 years of age" to conform to current drafting style.

Section 6 - Amends AS 04.16.049(c), allowing juveniles, 16 & 17 years of age, to be employed on golf course licensed premises as long as they are not serving alcohol, have written consent of guardian or parent, and an exemption granted by the Department of Labor.

Section 7 - Amends AS 04.16.049(d), to allow minors, 18 - 20 years of age, to be employed within the licensed premises of a golf course as long as they do not sell, serve, deliver, or dispense alcoholic beverages.

Section 8 - Adds a new subsection (g) to AS 04.16.049 to permit access by minors to golf courses for the purpose of playing golf. Adds new subsections making unauthorized presence by a minor on licensed premises a violation, punishable by a fine of \$500, which must be charged and filed with the court as a separate case. The fine may be reduced by a court to \$50 for a person who has not more than one previous violation or to \$250 for a person who has two or more previous violations if the minor supplies proof of completion of an alcohol safety action program or a community diversion panel.

Section 9 - Repeals and reenacts AS 04.16.050 to make minor consuming a violation, punishable by a fine of \$500, which must be charged and filed with the court as a separate case. The fine may be reduced by a court to \$50 for a person who has not more than one previous violation or to \$250 for a person who has two or more previous violations if the minor supplies proof of completion of an alcohol safety action program or a community diversion panel.

Section 10 - Modifies the required language for warning signs on licensed or designated premises in AS 04.21.065(b).

Section 11 - Adds a new provision in 04.21.078 barring the court system from publishing on a publicly available website the record of a violation of AS 04.16.049 or 04.16.050, or a similar municipal ordinance, if the violation was charged separately and was not joined with another minor offense or criminal charge.

Section 12 - Amends 04.21.080(b) Definitions, add definition for "community diversion panel"

Section 13 - Amends AS 12.62.400(a) National criminal history record checks for employment, licensing, and other noncriminal justice purposes authorizing Department of Public Safety to obtain a criminal history record check of a person applying for a license to operate a marijuana establishment, as is currently required for alcohol beverage licensees.

Section 14 - Amends 17.38.200(a) requiring applicants for registration to operate marijuana establishments to submit to a criminal history record check.

Section 15 - Amends AS 21.36.210(a) Limits on cancellation, to remove a reference to AS 21.96.027 due to repeal and reenactment of AS 04.16.050.

Section 16 - Amends AS 28.15.057(a) Restrictions on driver's license issued to person under 18, to reflect the repeal and reenactment of AS 04.16.050.

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MR. KOPP explained that a goal of the committee was to remove the criminal penalties associated with non-driving offenses. If a minor possesses alcohol, and is in a vehicle, and under the influence, they are cited for minor driving after consuming, or DUI, whatever is appropriate. A minor consuming charged by itself is never a driving related offense, and part of the work of the Title 4 group was working with prosecutors who recognized that Alaska's current system is broken when applying driving penalties and driver's license revocations for non-driving offenses. He remarked that these offense can cause kids to drop out of college, drop out of school, and it is destabilizing in their life when those social institutions are taken away from them when their driver's license is attached.

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MR. KOPP continued,

Section 17 - Amends AS 28.15.191(a) Court and parole board reports to department removes court requirement to forward to DMV a record of a minor consuming alcohol violation conviction within five working days.

Section 18 - Amends AS 28.15.211(g) removes reference to DMV not issuing or reissuing a driver's license to a person whose license was revoked for an offense under 04.16.050.

Section 19 - Amends the uncodified law of the State of Alaska, adding a new section describing a Direct Court Rule Amendment to Rule 17(a), Alaska Rules of Minor Offense Procedure, providing an exception to when a prosecutor may join a minor offense with a related criminal offense.

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MR. KOPP explained that the general rule is that a prosecutor may join a minor offense violation with a criminal offense at the time a person is charged. Although, with this direct court rule amendment, a prosecutor may not join a minor consuming alcohol offense with another related criminal offense, which keeps it off CourtView.

MR. KOPP continued,

Section 20 - Amends the uncodified law of the State of Alaska, adding a new subsection (g) to Rule 17, Alaska Rules of Minor Offense Procedure, providing that a prosecutor may not join a minor offense for a violation of AS04.16.049 or AS 04.16.050 with a related criminal offense.

Section 21 - Repeals various sections that have to do with denial, cancelation or non-renewal of insurance for minor consuming violations, court revocation of a driver's license for minor consuming alcohol, and Health & Social Services agreements under Delinquent Minor rules to revoke a driver's license for minor consuming alcohol offenses.

Section 22 - Applicability provisions.

Section 23 - Transition provisions relating to membership on the ABC Board.

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CHAIR LEDOUX advised the committee of the witnesses available to testify and asked the committee whether it had any questions for those people, hearing none, Chair LeDoux opened public testimony.

[3:01:16 PM](#)

ROBIN MINARD, Director, Public Affairs, Mat-Su Health Foundation, explained that the Mat-Su Health Foundation shares ownership in the Matsu Medical Center, and invests its share of the hospital's profits back into the community to improve the health status of local residents. She related that the Mat-Su Health Foundation conducted a community health needs assessment in 2013, which included data analysis, public polling, and 24 community forums. Consistently, she offered, alcohol and substances abuse were rated as the number one health issue in Mat-Su. Within follow-up research, the local police captains advised that the number one substance problem was alcohol, alcohol, alcohol. She said that the Foundation supports the Mat-Su Substance Abuse Prevention Coalition which uses what are called environmental strategies to reduce underage drinking in the community, and environment strategy is one in which the environment is changed that influences behavior. Classic environmental strategies, include: alcohol taxes, policies that

restrict the density of alcohol outlets, and policies that ensure swift and uniform enforcement. The Mat-Su Health Foundation is also a funding partner of Recover Alaska which aims to reduce the harm caused by alcohol throughout Alaska, and it supports these environmental strategies. The Mat-Su Health Foundation supports this legislation because it enables swifter and more uniform enforcement which sends a much clearer message to youth, it provides an incentive through fine reduction to attend an alcohol education program, and it de-criminalizes the action so no one mistake can follow youth through their permanent record. Swift and uniform enforcement decreases underage drinking, and this has been an important strategy that has worked in many other states. Alcohol does bring in some revenue, but it also comes with enormous costs associated with its use from crime, to violence, to preventable death and injury. She advised that the Mat-Su Health Foundation is pleased that the legislation adds a public safety representative to the ABC Board, and she urged the committee to pass SB 165 to recover Alaska.

[3:03:39 PM](#)

DALE FOX, President/CEO, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), said the Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR) supports SB 165 due to compromises made in the other body last week. This bill now represents a number of major improvements for the State of Alaska, including: a balanced ABC Board; a new attempt to fight underage drinking with sure and swift punishment; provides fixes to golf courses so those under 21 can golf; and provides marijuana background checks. In response to a question Representative Foster asked, he advised that Bobby Evans is the rural member serving on the ABC Board at this time. He then encouraged the members to pass the bill so it has an opportunity to become law this year.

CHAIR LEDOUX, after ascertaining no one further wished to testify, closed public testimony.

[3:05:51 PM](#)

REPRESENTATIVE LYNN moved to report HCS CSSB 165, Version 29-LS1384\E, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HCS CSSB 165(L&C) from the House Judiciary Standing Committee.

CHAIR LEDOUX commented that this is one of the most valuable bills this session, because as someone who once had teenage children, she was always perplexed by some of the insanity in Alaska's alcohol regulations relating to minors, and this fixes a lot.

REPRESENTATIVE CLAMAN noted that the legislation is consistent with the committee's efforts toward criminal justice reform, and this addresses those efforts at a minor level.

[3:07:25 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:07 p.m.