

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 23, 2016

3:23 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Shelley Hughes, Vice Chair  
Representative Jim Colver  
Representative Gabrielle LeDoux  
Representative Cathy Tilton  
Representative Andy Josephson  
Representative Sam Kito

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)

**COMMITTEE CALENDAR**

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(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 289

"An Act relating to the membership of the Board of Barbers and Hairdressers."

- MOVED HB 289 OUT OF COMMITTEE

HOUSE BILL NO. 337

"An Act relating to taxes on marijuana."

- MOVED CSHB 337(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

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

BILL: HB 289

SHORT TITLE: BOARD OF BARBERS AND HAIRDRESSERS

SPONSOR(s): LEDOUX

02/01/16	(H)	READ THE FIRST TIME - REFERRALS
02/01/16	(H)	L&C
03/21/16	(H)	L&C AT 3:15 PM BARNES 124
03/21/16	(H)	Heard & Held
03/21/16	(H)	MINUTE(L&C)
03/23/16	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 337

SHORT TITLE: MARIJUANA TAXES; EXCESS POSSESSION; BONDS

SPONSOR(s): LEDOUX

02/24/16	(H)	READ THE FIRST TIME - REFERRALS
02/24/16	(H)	L&C, FIN
03/09/16	(H)	L&C AT 3:15 PM BARNES 124
03/09/16	(H)	Heard & Held
03/09/16	(H)	MINUTE(L&C)
03/11/16	(H)	L&C AT 3:15 PM BARNES 124
03/11/16	(H)	-- MEETING CANCELED --

03/16/16	(H)	L&C AT 3:15 PM BARNES 124
03/16/16	(H)	Heard & Held
03/16/16	(H)	MINUTE(L&C)
03/21/16	(H)	L&C AT 3:15 PM BARNES 124
03/21/16	(H)	Scheduled but Not Heard
03/23/16	(H)	L&C AT 3:15 PM BARNES 124

#### **WITNESS REGISTER**

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

**POSITION STATEMENT:** Reviewed the committee substitute (CS) for HB 194, and answered questions.

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

**POSITION STATEMENT:** On behalf of Representative LeDoux, sponsor of HB 337, reviewed the committee substitute for HB 337 and answered questions.

KEN ALPER, Director  
Tax Division  
Department of Revenue  
Juneau, Alaska

**POSITION STATEMENT:** Answered a question during the hearing on HB 337.

CYNTHIA FRANKLIN, Director  
Alcohol & Marijuana Control Office  
Anchorage Office  
Department of Commerce, Community & Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the hearing on HB 337.

KONRAD JACKSON, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered a question during the hearing on HB 337.

#### **ACTION NARRATIVE**

[3:23:08 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:23 p.m. Representatives Olson, Josephson, Hughes, LeDoux, Colver, Tilton, and Kito were present at the call to order.

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

[3:23:29 PM](#)

CHAIR OLSON announced that the first 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."

[The committee substitute for HB 194, Version E, was before the committee.]

[3:23:57 PM](#)

KEVIN ANSELM, Director, Division of Banking and Securities, Department of Commerce, Community & Economic Development, briefly reviewed HB 194, noting that the bill would recognize and incorporate current securities industry terms and standards, update the law, and delete outdated references. Furthermore, HB 194 would synthesize the Alaska Securities Act with other states' laws, open equity crowdfunding opportunities to Alaskans, deter investment scams, enhance penalties, and separate the securities statutes from the Alaska Native Claims Settlement Act statutes.

[3:26:03 PM](#)

REPRESENTATIVE LEDOUX moved to adopt Amendment 1, which read:

Page 34, lines 8 - 9:

Delete "by governmental authorities"

CHAIR OLSON objected for discussion purposes.

REPRESENTATIVE LEDOUX explained that Amendment 1 requires that any action known to be contemplated has to be disclosed, not only those contemplated by governmental authorities.

MS. ANSELM opined Amendment 1 would change the model language a little; however, the original language was not very clear that all potential or pending litigation that hasn't been filed should be noticed. She acknowledged that the model language includes an official comment that said, "Pending litigation can include litigation that has not yet been filed." Ms. Anselm said she understood the intent of the amendment, and accepted the amendment.

REPRESENTATIVE KITO surmised that deleting "by [governmental authorities]," raises concern about who or what is contemplating the action.

MS. ANSELM answered that the language in the bill addresses what needs to be disclosed to potential investors, particularly in the prospectus of the offering document. An issuer must disclose any pending litigation, action, or proceeding to which the issuer is a party, and that materially affects the issuer's business or assets, and is known to be contemplated by anyone. Thus, the intent is to have any awareness of a lawsuit disclosed, whether by the government or anyone else.

[3:30:40 PM](#)

REPRESENTATIVE KITO questioned how an individual would know; actions by a governmental authority require public notice, but for a private party, it may not be known.

MS. ANSELM agreed; however, sometimes parties do know, but the paperwork hasn't been filed, and in those cases there should be disclosure. In further response to Representative Kito, she said the language can be made clear in regulation.

[3:32:12 PM](#)

CHAIR OLSON removed his objection to Amendment 1. There being no further objection, Amendment 1 was adopted.

[3:32:20 PM](#)

CHAIR OLSON opened public testimony on HB 194. After ascertaining no one wished to testify, public testimony was closed.

[3:32:43 PM](#)

REPRESENTATIVE HUGHES moved to report the committee substitute for HB 194, Version 29-GH1060\E, Bannister, 3/11/16, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 194(L&C) was reported from the House Labor and Commerce Standing Committee.

[3:33:16 PM](#)

The committee took an at ease from 3:33 p.m. to 3:36 p.m.

**HB 289-BOARD OF BARBERS AND HAIRDRESSERS**

[3:36:28 PM](#)

CHAIR OLSON announced that the next order of business would be HOUSE BILL NO. 289, "An Act relating to the membership of the Board of Barbers and Hairdressers."

CHAIR OLSON opened public testimony on HB 289. After ascertaining no one wished to testify, closed public testimony.

[3:37:22 PM](#)

REPRESENTATIVE HUGHES moved to report HB 289 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 289 was reported from the House Labor and Commerce Standing Committee.

[3:37:46 PM](#)

The committee took an at ease from 3:37 p.m. to 3:38 p.m.

**HB 337-MARIJUANA TAXES;EXCESS POSSESSION;BONDS**

[3:38:04 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 337, "An Act relating to taxes on marijuana."

[The committee substitute for HB 337, Version H, was before the committee.]

3:41:26 PM

KAYLSSA MAILE, Staff to Representative Gabrielle LeDoux, sponsor of HB 337, reviewed the bill. She noted that HB 337 establishes the bonding requirement for marijuana cultivators seeking licensure, and the committee substitute changed the requirement from a \$5,000 cash bond to the option of either a \$5,000 cash bond, or a surety bond. In addition, the bill makes product manufacturers and retailers secondarily liable for taxes, and allows the Department of Revenue (DOR) to assess a tax on plants above the legal limit for those who are not licensed as cultivators. The other change made in the committee substitute was to add an immediate effective date, so that the bill would be in effect before licenses are awarded.

REPRESENTATIVE JOSEPHSON asked for the cost to begin a commercial operation - including lamps and all of the necessary equipment - and a license.

MS. MAILE was unsure.

3:43:56 PM

KEN ALPER, Director, Tax Division, DOR, advised that the cost of start-up is part of the licensing process with the Marijuana Control Board (MCB), Alcohol and Marijuana Control Office, Department of Commerce, Community & Economic Development, and DOR does not have a financial relationship with any of the potential marijuana taxpayers.

REPRESENTATIVE JOSEPHSON inquired as to whether the only fee imposed by the state thus far is the \$5,000 bond in HB 337. He remarked:

... I just want to know what our 60 hands have imposed on people, and if it's only \$5,000, I'm, I'm going to vote for this bill I think anyway, but I just want to get a sense of whether we are really creating impediments that, that were not part of the spirit of the [Alaska Marijuana Legalization Ballot Measure 2 (2014)].

MR. ALPER stated that fees and costs are established by MCB through the regulatory process; in fact, the legislature has not put any direct costs on the industry.

[3:46:02 PM](#)

CYNTHIA FRANKLIN, Director, Alcohol and Marijuana Control Office, Department of Commerce, Community and Economic Development, offered to answer questions.

REPRESENTATIVE JOSEPHSON repeated his question.

MS. FRANKLIN advised that the cost of starting a marijuana business depends on the type of license and on the business model. Monies paid to the state are an annual licensing fee of either \$1,000 to \$5,000, and a nonrefundable \$1,000 application fee, which is split between the state and local government.

REPRESENTATIVE JOSEPHSON estimated that the maximum range of government fees begins at approximately \$11,000, plus the capital costs of the business.

MS. FRANKLIN pointed out that the \$5,000 bond is only imposed on the cultivator. Other types of marijuana licensing, such as for a testing facility, would not requiring bonding.

REPRESENTATIVE TILTON asked for an explanation of the difference between a tax and a penalty against an illegal operation.

[3:49:41 PM](#)

KONRAD JACKSON, Staff to Representative Kurt Olson, Alaska State Legislature, relayed that Legislative Legal Services, Legislative Affairs Agency, advised that a tax is accessible immediately without conviction, and a fine or penalty would require charges and conviction.

CHAIR OLSON redirected the question to Ms. Franklin.

MS. FRANKLIN confirmed that criminal penalties would still apply because legally growing, selling, or producing marijuana specified by the Alaska Marijuana Legalization Ballot Measure 2 (2014) only applies to individuals, corporations, and entities that have a license. Therefore, someone growing without a license would have criminal charges assessed regardless of whether DOR has collected taxes.

3:52:16 PM

REPRESENTATIVE HUGHES moved to report the committee substitute for HB 337, Version 29-LS1490\H, Nauman, 3/10/16, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 337(L&C) was reported from the House Labor and Commerce Standing Committee.

3:53:06 PM

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:53 p.m.