

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

April 1, 2016

4:41 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. 271

"An Act relating to a money services business; relating to transmitting value that substitutes for money; relating to licensing requirements and registration through the Nationwide Multistate Licensing System and Registry; relating to surety bonding requirements; authorizing certain licensees to contract to use subdelegates for reloading funds onto stored-value cards; relating to record retention, reporting requirements, and enforcement provisions; relating to exemptions; relating to money services Internet activities; relating to definitions regarding the transmitting value, currency, and money transmission business activities; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 271

SHORT TITLE: MONEY SERVICES BUSINESS: REQS; LICENSING;

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/20/16	(H)	READ THE FIRST TIME - REFERRALS
01/20/16	(H)	L&C
04/01/16	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

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

POSITION STATEMENT: Provided a PowerPoint presentation entitled, "Alaska Money Services Act HB 271" dated 3/31/16, and answered questions.

ACTION NARRATIVE

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CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 4:41 p.m. Representatives Olson, Tilton, Kito, Josephson, Hughes, and LeDoux were present at the call to order. Representative Colver arrived as the meeting was in progress.

HB 271-MONEY SERVICES BUSINESS: REQS; LICENSING;

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CHAIR OLSON announced that the only order of business would be HOUSE BILL NO. 271, "An Act relating to a money services business; relating to transmitting value that substitutes for money; relating to licensing requirements and registration through the Nationwide Multistate Licensing System and Registry; relating to surety bonding requirements; authorizing certain licensees to contract to use subdelegates for reloading funds onto stored-value cards; relating to record retention, reporting requirements, and enforcement provisions; relating to exemptions; relating to money services Internet activities; relating to definitions regarding the transmitting value, currency, and money transmission business activities; and providing for an effective date."

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KEVIN ANSELM, Director, Division of Banking & Securities, Anchorage Office, Department of Commerce, Community & Economic Development (DCCED), provided a PowerPoint presentation entitled, "Alaska Money Services Act HB 271," which was a brief overview of what money services businesses are and the purposes of the bill. Ms. Anselm said money services businesses are,

either currency exchange or money transmission. Currency exchange means the receipt of revenues from the exchange of money of one government for money of another government, and money transmission means the selling or issuing of payment instruments, including checks, money orders, traveler's checks, prepaid or stored value cards, sending money via Western Union, or moving money from a deposit account to a loadable card [slide 2]. The purpose of HB 271 is to modernize the [Alaska Uniform Money Services Act], update the definition of money transmission, including virtual currencies, and incorporate alternative payment systems and instruments such as Apple Pay and Square, Inc.

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CHAIR OLSON asked whether there would be an impact to group medical reimbursement.

MS. ANSELM replied no. She then returned to the presentation and noted that when the Act was originally passed in 2007, virtual currency was not considered, thus the division does not regulate virtual currency.

REPRESENTATIVE LEDOUX asked for a definition of virtual currency.

MS. ANSELM explained that virtual currency is a digital representation of value, mined through a computer program using an algorithm. For example, using a mathematical formula, a limited amount of virtual currency - such as bitcoin - can be mined over time.

CHAIR OLSON added that virtual currency is available all over the world with an access number and a security code.

MS. ANSELM agreed and observed that virtual currency is secret in that people are identified only by a number, which is not attached to a name. She cautioned that these currencies are associated with untoward transactions, and that bitcoin is commonly used in Alaska.

REPRESENTATIVE LEDOUX stated that currency is backed by gold or the full faith and credit of a country, and asked why bitcoin is worth anything.

MS. ANSELM said, "Because someone thinks it is."

REPRESENTATIVE KITO stated that value is created by the scarcity of bitcoin.

MS. ANSELM, in response to Representative LeDoux, further explained that if someone thinks a commodity is worth a lot, for a short time, it will be. She stressed that the division needs to decide whether to regulate virtual currency and inform consumers.

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CHAIR OLSON understood that there is a finite number of bitcoin, and the price fluctuates dramatically. Theoretically, more bitcoin can't be made.

REPRESENTATIVE LEDOUX surmised bitcoin is "used where you might not want the government to know what you're doing, they're kind of like a, a tech version of a Swiss bank account."

MS. ANSELM agreed. Other purposes of HB 271 are: to allow licensees to contract with a delegate who may then use their network of subdelegates to reload funds onto prepaid cards without having a separate contract; to remove an out-of-state business advantage that allows applicants licensed in another state to submit minimal information, and pay only half the fee an entity headquartered in Alaska pays [slide 3]. The bill affects current money services businesses (MSBs) by simplifying the licensing process as follows:

- requires use of the [Nationwide Multistate Licensing System and Registry] (NMLS)
- replaces the net worth requirement with a surety bond requirement that can be adjusted
- allows annual assessment fees to cover periodic examination fees and ongoing administrative costs

MS. ANSELM noted that the present net worth requirement is \$25,000; however, a bond allows a business more coverage without using as much capital [slide 4].

REPRESENTATIVE LEDOUX returned to the subject of bitcoin and relayed that the new marijuana industry raises concerns about how businesses will pay their taxes and utilize banks. She asked whether bitcoin could be the solution for the marijuana industry.

MS. ANSELM was unsure. Bitcoin is not recognized as a currency, and the state would have to decide to accept bitcoin as a payment for taxes. She restated that virtual currency is not regulated by the state, and said she could not answer the question.

CHAIR OLSON referred to a defunct underground web site where bitcoin was accepted.

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REPRESENTATIVE HUGHES read the following [document not provided]:

The use of bitcoin by criminals has attracted the attention of financial regulators, legislative bodies, law enforcement, and media. Criminal activities are primarily centered around black markets and theft, though officials in countries such as the United States also recognize that bitcoin can provide legitimate financial services. Bitcoin has drawn the support of a few politicians, notably U.S. Senator Rand Paul who accepts donations in bitcoin.

MS. ANSELM added that some states including California and New York, are regulating virtual currency. She returned to the presentation and said the bill would enhance consumer protection as follows [slide 5]:

- adds a background check component
- requires licensees to comply with federal law
- increases the record retention schedule
- removes advance exam notification requirement
- updates enforcement provisions

MS. ANSELM further explained that the bill provides an exemption for businesses that are not MSBs, such as insurance companies, title companies, escrow agents, or attorneys that engage in ancillary money transmission as part of their lawfully conducted business [slide 5]. Provisions for electronic payments are included, and the definition of payment instrument would include a Mobile Wallet [slide 6]. The provisions related to stored value cards are especially important to local Alaska money transmitters because the bill affects prepaid cards that are both open loop and reloadable.

Ms. Anselm stated open loop and stored value cards are defined as follows [slide 7]:

- monetary value is prefunded, reduced at each use, and can also be increased
- includes electronic device or vehicle such as a card code or a pin number
- redeemable at multiple, unaffiliated merchants or automated teller machines (ATMs)
- does not include an electronic record that is primarily intended to be redeemable only for goods or services from a specific merchant

MS. ALSELM gave the example of an Olive Garden \$50 card that is not reloadable and does not require an MSB licensee to issue or sell; however, a VISA/Green Dot card from a service center is a reloadable card and an MSB licensee is required [slide 8].

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REPRESENTATIVE COLVER asked whether the proposed bill could be written to eliminate or extend the expiration date on cards as a consumer protection action, so that the funds do not revert back to the seller when the card expires.

MS. ANSELM answered that gift cards and reloadable cards differ, and gift cards are not covered by HB 271. She offered to research this topic.

CHAIR OLSON recalled federal laws supersede in this regard.

MS. ANSELM directed attention to slide 9, entitled "The Current Treatment of Subdelegates," which related to a particular licensee in Nome, and the current complicated process necessary to issue [the Alaska Prepaid Card dba Q-Card]. She said there is a need to simplify this process as many residents use prepaid cards in rural areas because they can be purchased in a village store or supermarket, and used almost like a checking account to pay bills. At this time, Alaska Prepaid Card contracts with Western Union Financial Services, and Western Union is a delegate at 32 locations in Alaska at Fred Meyer, Walgreens, and Safeway stores. To comply with current law that does not allow the use of a subdelegate for any purchase, Alaska Prepaid Card must also contract with each individual location. In addition, current law requires Alaska Prepaid Card to carry a bond to include Western Union and each store, which is expensive.

CHAIR OLSON asked how much card users pay in fees to Alaska Prepaid Card.

MS. ANSELM said she will provide that information.

REPRESENTATIVE HUGHES inquired as to whether streamlining the process would reduce the user fees.

MS. ANSELM said it may.

[5:04:15 PM](#)

CHAIR OLSON asked whether "cash back" is a different [user fee] charge.

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MS. ANSELM offered to provide a summary of service fees. Returning to the treatment of subdelegates, she said the process proposed by the bill allows Alaska Prepaid Card to maintain its license, and Western Union Financial Services remains a delegate; however, Alaska Prepaid Card would enter into a separate contract with Western Union to create a licensee-delegate relationship, and thereby utilize the delegates of Western Union without separate contracts [slide 10]. The result would be that the aforementioned Olive Garden card does not need a delegate, licensee, or subdelegate, and the VISA/Green Dot card would be a reloadable card, which requires an MSB licensee or delegate to issue and sell, and requires an MSB licensee, delegate, or subdelegate to reload [slide 11]. She continued with the presentation, noting that slide 12 listed definitions, and slide 13 listed the sections of HB 271 which will be introduced along with a committee substitute for the bill. In conclusion, Ms. Anselm informed the committee that since 2009, the division has issued 18 MSB final orders, the majority of which are related to unlicensed activity by unlicensed parties engaging in money transmission or currency exchange in Alaska [slide 14]. Furthermore, the division guards against fraudulent activity, including that instigated by out-of-state MSBs.

CHAIR OLSON questioned whether the division has reciprocity with other states in this regard.

MS. ANSELM said yes.

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REPRESENTATIVE COLVER asked whether there are reporting requirements on fraudulent activity in order to assess "how big the problem is."

MS. ANSELM assured the committee that the division is in contact with the Financial Crimes Enforcement Network (FinCEN), U.S. Department of the Treasury, and other state and federal regulators.

REPRESENTATIVE HUGHES directed attention to slide 3, and asked for an example of who is affected by the out-of-state business advantage.

MS. ANSELM explained that right now, out-of-state MSBs have a statutory advantage that the bill would repeal, thus out-of-state MSBs would pay the same amount as Alaska MSBs.

REPRESENTATIVE HUGHES asked how much more doubling the fees would garner the state.

MS. ANSELM advised that the fees have not been assessed. The intent is for the division to better cover the cost of regulating the industry, and she offered to compare the fees collected now and what would be expected under the bill. Slide 15 illustrated the following mission statements:

Division of Banking and Securities:
Protect consumers of financial services and promote
safe and sound financial systems

Department of Commerce, Community & Economic
Development:

Promote a healthy economy, support strong communities,
and protect consumers in Alaska

[HB 271 was held over.]

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:10 p.m.