

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

April 14, 2016

9:13 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Jim Colver
Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

SENATE BILL NO. 158

"An Act relating to real estate broker licensure; relating to the real estate commission; and providing for an effective date."

- MOVED HCS SB 158(L&C) OUT OF COMMITTEE

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

CONFIRMATION HEARING(S)

Marijuana Control Board

Bruce Schulte

- CONFIRMATION(S) ADVANCED

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 126(L&C)

"An Act establishing an exemption for the offering and sale of certain securities."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 206

"An Act relating to a reinsurance program for residents who are high risks and insurer assessments to cover the costs of the reinsurance program; relating to application for state innovation waivers for health care insurance; relating to definitions of 'residents who are high risks' and 'covered lives'; and providing for an effective date."

- PENDING REFERRAL

PREVIOUS COMMITTEE ACTION

BILL: SB 158

SHORT TITLE: REAL ESTATE COMMISSION;BROKER LICENSING

SPONSOR(s): LABOR & COMMERCE

01/25/16	(S)	READ THE FIRST TIME - REFERRALS
01/25/16	(S)	L&C
02/04/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/04/16	(S)	Scheduled but Not Heard
02/18/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/18/16	(S)	Heard & Held
02/18/16	(S)	MINUTE(L&C)
03/03/16	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/03/16	(S)	Moved SB 158 Out of Committee
03/03/16	(S)	MINUTE(L&C)
03/04/16	(S)	L&C RPT 3DP
03/04/16	(S)	DP: COSTELLO, GIESSEL, MEYER
04/01/16	(S)	TRANSMITTED TO (H)
04/01/16	(S)	VERSION: SB 158
04/04/16	(H)	READ THE FIRST TIME - REFERRALS
04/04/16	(H)	L&C
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

BILL: SB 165

SHORT TITLE: ALCOHOL: BOARD;MINORS;MARIJUANA CHECKS
SPONSOR(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

WITNESS REGISTER

WESTON EILER, Staff
Senator Mia Costello
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Senator Costello, chair,
Senate Labor and Commerce Standing Committee, sponsor, reviewed
SB 158.

KONRAD JACKSON, Staff

Representative Kurt Olson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Olson, chair, House Labor and Commerce Standing Committee, reviewed the proposed House committee substitute for SB 158.

ERROL CHAMPION, Chair
Legislative Issues Committee
Alaska Association of Realtors
Juneau, Alaska

POSITION STATEMENT: Answered questions and testified in support of HCS SB 158.

TRACI BARICKMAN, Commissioner
Alaska Real Estate Commission
Sutton, Alaska

POSITION STATEMENT: Testified in support of SB 158.

MATTHEW STEELE, Real Estate Licensee
Wasilla, Alaska

POSITION STATEMENT: Testified in support of the House committee substitute for SB 158.

ELIJAH WAUGH
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 158.

MARGARET NELSON, Real Estate Licensee
Alaska Real Estate Alliance
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 158.

KELSI PULCZINSKI
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 158.

JEREMY PRICE, State Director
Alaska Chapter
Americans for Prosperity
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 158.

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

POSITION STATEMENT: On behalf of Representative Olson, introduced the proposed House committee substitute for CSSB 165, Version E.

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

POSITION STATEMENT: On behalf of Senator Micciche, member, Senate Judiciary Standing Committee, sponsor, expressed the sponsor's support of the proposed amendment to CSSB 165(JUD)am.

BRUCE SCHULTE, Appointee
Marijuana Control Board
Alcohol & Marijuana Office
Department of Commerce, Community & Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified as appointee to the Marijuana Control Board.

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

POSITION STATEMENT: On behalf of Representative Olson, chair, House Labor and Commerce Standing Committee, presented the governor's appointee to the Marijuana Control Board.

MICHAELA FOWLER, Legislative Liaison
Office of the Commissioner
Department of Commerce, Community & Economic Development
Juneau, Alaska

POSITION STATEMENT: Provided information related to the delay of Bruce Schulte's application as appointee to the Marijuana Control Board.

ACTION NARRATIVE

[9:13:15 AM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting back to order at 9:13 a.m. Representatives Olson, Tilton, Kito, Josephson, and Hughes were present at the call back to order.

[The meeting was a continuation of the meeting recessed at 5:55 p.m. on 4/13/16.]

SB 158-REAL ESTATE COMMISSION;BROKER LICENSING

[9:13:56 AM](#)

CHAIR OLSON announced that the first order of business would be SENATE BILL NO. 158, "An Act relating to real estate broker licensure; relating to the real estate commission; and providing for an effective date."

[9:14:40 AM](#)

WESTON EILER, Staff, Senator Mia Costello, stated that SB 158 was brought forward and introduced by the Senate Labor and Commerce Standing Committee at the request of the Alaska Real Estate Commission and the real estate industry.

[9:14:57 AM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, stated that on 4/13/16, the committee moved, but did not adopt, the proposed House committee substitute for SB 158, Version 29-LS1303\H, Bruce, 4/5/16, which repeals AS 08.88.172(e), and thereby would require real estate brokers and salespersons to carry errors and omissions insurance. In addition, Version H changes the effective date of Section 4 of the bill to 1/1/18, which allows a broker applicant currently processing an application to complete that process.

[9:16:20 AM](#)

CHAIR OLSON removed his objection stated on 4/13/16, and Version H was before the committee.

[9:16:34 AM](#)

CHAIR OLSON opened public testimony.

[9:16:47 AM](#)

ERROL CHAMPION, Chair, Legislative Issues Committee, Alaska Association of Realtors, expressed his organization's support for the proposed House committee substitute for SB 158.

REPRESENTATIVE HUGHES asked how long the Alaska Association of Realtors has been working to support the proposed legislation, and whether support was found throughout its membership.

MR. CHAMPION responded that the legislation has been a topic of discussion for the last 3-4 years. In further response to Representative Hughes, he said the association does not represent every real estate licensee, however, it does represent about 1,600 of 2,400 real estate licensees, and all of the members of the association have been well informed in this regard.

[9:19:40 AM](#)

TRACI BARICKMAN, Commissioner, Alaska Real Estate Commission, informed the committee she has been a real estate broker for over 23 years, and has reviewed and supervised thousands of transactions and hundreds of licensees. She clarified that not all real estate licensees are Realtors, and the upgrade to education as referred to in the bill should not be confused with continuing education; the bill addresses 15 hours of additional broker education. Ms. Barickman described the differences in the industry between transactions of 25 years ago and those in recent years, and also the differences between what is taught a new licensee and what understanding is required of a broker, such as business recovery funds, opening a new office, trust accounts, operating accounts, supervision, and local, state, and federal law. She advised that the duties of a broker cannot be taught in 15 hours, or in 24 months of real estate sales.

[9:22:14 AM](#)

MATTHEW STEELE, real estate licensee, expressed his support of the effective date change [within Version H]. He clarified that there are two licenses issued by the state, that of a salesperson and that of a broker; however, to become an associate broker, one must obtain a broker's license. His goal is not to start his own firm, but to become an associate broker working under the supervision of a broker.

[9:23:58 AM](#)

ELIJAH WAUGH stated that as a lifelong Alaskan he finds legislation related to occupational licensing, such as SB 158, a direct infringement on individual liberty. The bill doubles the amount of time required to become a broker, and he questioned why that would provide safety to the general public. In reality, this policy helps very few and is an example of "crony capitalism" because it creates barriers to entry, and limits competition to existing brokers. Mr. Waugh referred to a recent

White House report that showed unnecessary occupational licensing negatively affects low-income families, immigrants, and military spouses, and leads to higher unemployment [report not provided]. At this time, Alaska needs leadership and he expressed his strong opposition to the bill.

REPRESENTATIVE JOSEPHSON inquired as to whether Mr. Waugh would attribute to the real estate industry any honest motivation or merit in its support for further education for brokers.

MR. WAUGH opined the industry seeks to gain from requiring more education, and there is no problem with the current system.

[9:27:14 AM](#)

MARGARET NELSON, real estate licensee, Alaska Real Estate Alliance, said she works for a very small brokerage and has worked in the industry for 12 years. She acknowledged that SB 158 has support of the "Alaska boards of Realtors"; however, she is not a Realtor, and was unaware of the bill. She said she is opposed to SB 158 because the real estate industry is a professional service industry, and individuals distinguish themselves by providing customer service to their clients. Large brokerage houses support this bill as it eliminates competition from new brokerages. Ms. Nelson pointed out that all licensees are independent contractors who are small business owners and thus are subject to taxes as a small business. More time spent on unnecessary training restricts time to earn money, and every two years repetitive continuing education courses are required. She noted that some real estate licensees who provide property management services, and manage homeowner's associations, will pass the cost of additional training along to homeowners, and brokers who work for engineering companies will also pass costs along to consumers. Another point is that some brokers already have undergraduate degrees. Most important is the impact of the bill on rural Alaska, where applicants will have to travel for training and not all are suited for correspondence classes. Ms. Nelson opined that present-day real estate is not more complex if one seriously wishes to assist one's client. She urged for more review of the proposed legislation.

[9:32:38 AM](#)

KELSI PULCZINSKI said she is strongly opposed to SB 158 because the bill doubles the amount of experience required to become a licensed real estate broker, and doubles the amount of training

required. She stated that the increased requirements are unnecessary and create barriers to enter into the field; in fact, unnecessary occupational licensure requirements infringe on individual liberties, cripple the free market, and perpetuate crony capitalism. Ms. Pulczinski opined the legislation addresses a problem that does not exist, and supporters of the bill will directly benefit by eliminating competition. Additionally, supporters are the only sources offering the training. The proposed legislation hurts small business owners, low-income individuals, and others. She urged for the committee to better the lives of Alaskans by protecting their opportunities.

[9:34:57 AM](#)

JEREMY PRICE, State Director, Alaska Chapter, Americans for Prosperity, said he was speaking on behalf of "thousands of grass-roots activists across the state" to oppose SB 158. The legislation reduces competition for big brokerage firms and creates barriers and unnecessary hurdles for those wishing to become a broker, by those who will benefit. He noted the demographics of those most negatively affected are low-income, immigrants, military spouses, and rural individuals. He read from a report [report not provided]. Mr. Price read from the public record of the 9/2[/16] minutes of the Alaska Real Estate Commission [document not provided]. He concluded that members of the industry, who are trainers, have put the legislation forward, which is a conflict of interest that has not been given full attention. Large brokerage firms support the bill because it suppresses competition; however, the public benefits from greater competition, and there is legal recourse to deal with bad actors.

[9:37:56 AM](#)

REPRESENTATIVE JOSEPHSON opined that fifteen hours of additional education is not very much to ask of brokers. He asked whether one more year of experience would be satisfactory, rather than two more years.

MR. PRICE stated that legislation is not the best way to prevent bad actors from becoming licensed brokers. He supported Representative Josephson's foregoing proposal.

REPRESENTATIVE JOSEPHSON surmised the intent of the legislation is to strive for improvement in the industry.

MR. PRICE inquired as to whether the industry provided the committee with evidence of problems which are addressed by the legislation.

[9:40:09 AM](#)

CHAIR OLSON, after ascertaining no one else wished to testify, closed public testimony.

[9:40:52 AM](#)

REPRESENTATIVE KITO moved to report CS for SB 158 out of committee with individual recommendations and the accompanying fiscal notes.

[There followed discussion as to the correct version of the bill.]

[9:41:21 AM](#)

REPRESENTATIVE KITO restated the motion to report [House] committee substitute for SB 158, Version 29-LS1303\H, Bruce, 4/5/16, out of committee with individual recommendations and the accompanying fiscal notes.

[9:41:38 AM](#)

REPRESENTATIVE JOSEPHSON advised that he would not object to fifteen hours of additional education, however, he suggested that members may further consider the extension from two years to four years.

[9:42:08 AM](#)

There being no objection, HCS SB 158(L&C) was reported out of the House Labor and Commerce Standing Committee.

[9:42:11 AM](#)

The committee took an at ease from 9:42 a.m. to 9:46 a.m.

SB 165-ALCOHOL: BOARD;MINORS;MARIJUANA CHECKS

[9:46:43 AM](#)

CHAIR OLSON announced that the next 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."

CHAIR OLSON stated he maintained his objection to the proposed House committee substitute for CSSB 165(JUD)am, Version 29-LS1384\E, Bruce, 4/13/16, made during the previous meeting on 4/13/16.

[9:46:56 AM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, presented the proposed House committee substitute for CSSB 165(JUD)am, Version E. Version E makes two identical changes found on page 5, beginning on lines 3 and 22, which insert, after \$50, the following:

... for a person who has not more than one previous violation or to \$250 for a person who has two or more previous violations

MR. JACKSON said the intent is to increase the minimum fine for repeat offenders.

[9:47:47 AM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, sponsor, in response to Chair Olson, confirmed that the sponsor is in support of the amendment.

[9:48:05 AM](#)

CHAIR OLSON removed his objection. There being no further objection, Version E was before the committee.

[9:48:17 AM](#)

REPRESENTATIVE HUGHES moved to report House committee substitute (HCS) for CSSB 165, Version 29-LS1384\E, Bruce, 4/13/16, out of

committee with individual recommendations and the accompanying zero fiscal notes.

[9:48:54 AM](#)

REPRESENTATIVE JOSEPHSON observed that if the bill comes to the House floor, he will very thoroughly vet each line in order to be more comfortable about the bill. He commented, "I agree that we have to be reasonable about penalties for minor consuming."

CHAIR OLSON added that the House committee substitute was a collaborative effort to encourage minor consumers to "think twice."

[9:49:50 AM](#)

There being no objection, HCS CSSB 165(L&C) was reported out of the House Labor and Commerce Standing Committee.

[9:50:03 AM](#)

The committee took an at ease from 9:50 a.m. to 9:52 a.m.

Marijuana Control Board

[9:52:21 AM](#)

CHAIR OLSON announced that the final order of business would be a confirmation hearing on the governor's appointee to the Marijuana Control Board.

[9:53:01 AM](#)

BRUCE SCHULTE, Appointee, Marijuana Control Board, Alcohol & Marijuana Office, Department of Commerce, Community & Economic Development, informed the committee he currently serves as an industry representative on the Marijuana Control Board (MCB).

REPRESENTATIVE KITO asked about Mr. Schulte's experience operating a business, as MCB will be creating the rules for the operation and licensing of the marijuana businesses, including testing products.

MR. SCHULTE responded that he is a trained architect and practiced over 20 years working for small and large firms, and also worked as a commercial pilot. Both of these are highly regulated industries; in fact, architecture involves merging

multiple and conflicting regulations and complex problem-solving, and is suitable preparation for this task.

REPRESENTATIVE KITO observed that MCB board members represent public safety, public health, and rural areas, and stressed that the two industry representatives really need to have business operational experience. Although there is no statutory authorization or intent in [Alaska Marijuana Legalization Ballot Measure 2, passed in 2014 (Ballot Measure 2)] to allow marijuana bars or cafes, but only for marijuana use in the privacy of homes, MCB made a recommendation to authorize marijuana cafes. He expressed his concern that this action by MCB was contrary to statute.

MR. SCHULTE explained that there was a desire from some communities to have a place to consume cannabis, other than in homes, in order to accommodate tourists. In addition, emerging marijuana clubs were "threading a perceived loophole through statute to create such a place," and the public asked the board to address this issue. Initially, MCB requested the legislature to grant it authority to regulate marijuana clubs; alternatively, MCB decided to create an expanded type of retail store to allow onsite consumption under certain circumstances. Mr. Schulte acknowledged that the certain circumstances have not yet been determined, and assured the committee "it's not an effort to turn Alaska into Amsterdam." He opined that the regulations that will apply to onsite consumption at retail stores will be "pretty strict." Regarding whether the recommendation is consistent with statute, legal counsel to MCB advised that the recommendation was an allowable expansion of the license articulated in Ballot Measure 2.

[10:00:23 AM](#)

REPRESENTATIVE KITO requested a copy of the legal opinion given to MCB, and cautioned against MCB acting beyond its statutory authority.

MR. SCHULTE said he would provide the requested information.

REPRESENTATIVE JOSEPHSON asked for Mr. Schulte's position on out-of-state corporations using a post office box to obtain licensure.

MR. SCHULTE stated the problem with the participation of outside "players" was MCB's inability to know who was engaging in the industry within the state. The board decided that one would

have to qualify for a permanent fund dividend (PFD) in order to receive a license.

REPRESENTATIVE JOSEPHSON asked again for Mr. Schulte's position on the foregoing issue.

MR. SCHULTE said at one point he sought to "allow some limited amount of outside investment"; however, he voted for the PFD-only test.

REPRESENTATIVE HUGHES inquired as to whether Mr. Schulte agreed that farmers who grow industrial hemp would fall under MCB regulation and would pay excise tax.

MR. SCHULTE said he would not agree it is appropriate to apply the \$50 tax on hemp, which is a different product than marijuana.

REPRESENTATIVE HUGHES asked whether the present statute requires that farmers are taxed and licensed by MCB.

MR. SCHULTE expressed his understanding that Ballot Measure 2 specifically spoke to the forms of cannabis that contain high tetrahydrocannabinol (THC) or cannabidiol (CBD) content, and hemp has neither. He said he welcomed a "statutory fix" that would clarify this question, and said hemp is grown primarily for its fiber, and should be dealt with differently.

[10:06:22 AM](#)

CHAIR OLSON opened public testimony.

[10:06:56 AM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, informed the committee of the computer problems with Mr. Schulte's online application, and stated that all members have had an opportunity to speak to Mr. Schulte and to review his resume. Mr. Jackson read his name and appointment:

Bruce Schulte, to the Marijuana Control Board

[10:08:25 AM](#)

MICHAELA FOWLER, Legislative Liaison, Office of the Commissioner, Department of Commerce, Community & Economic Development, explained, and apologized for, the errors in the

computer database at DCCED that delayed the transfer of Mr. Schulte's application to the committee.

10:10:19 AM

REPRESENTATIVE HUGHES moved to advance the confirmation of Bruce Schulte to the Marijuana Control Board, which was referred to the House Labor and Commerce Standing Committee, to a joint session of the House and Senate for consideration. She reminded the members that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection. There being no objection, the confirmation of Bruce Schulte was advanced.

10:11:06 AM

ADJOURNMENT

The House Labor and Commerce Standing Committee meeting was recessed at 10:11 a.m. to a call of the chair. [The meeting reconvened at 10:05 a.m. on 4/15/16.]