

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 11, 2015

1:32 p.m.

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Cathy Giessel, Vice Chair
Senator Pete Kelly
Senator Bill Stoltze
Senator Johnny Ellis

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 1

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 1

SHORT TITLE: REGULATION OF SMOKING

SPONSOR(S): SENATOR(S) MICCICHE

01/21/15	(S)	PREFILE RELEASED 1/9/15
01/21/15	(S)	READ THE FIRST TIME - REFERRALS
01/21/15	(S)	HSS, STA, FIN
01/30/15	(S)	SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
01/30/15	(S)	HSS, STA, FIN
02/11/15	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 1.

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

POSITION STATEMENT: Presented information related to SB 1 on behalf of the sponsor.

GUY BUTLER, Chief Medical Officer
Division of Public Health
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 1.

JILL LEWIS, Deputy Director
Division of Public Health
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 1.

JERRY TIMMONS, Representing himself
Fairbanks, Alaska

POSITION STATEMENT: Shared his story about lung cancer from second-hand smoke and testified in support of SB 1.

KATHIE WASSERMAN, Executive Director
Alaska Municipal League
Juneau, Alaska

POSITION STATEMENT: Testified against SB 1.

MELISSA WANAMAKER, Development Director
American Heart Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 1.

KRISTIN LUBY, Business Development Director
American Heart Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 1.

JACK DUCKWORTH, Representing himself
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of SB 1.

JAMIE MORGAN, Government Regulations
American Heart Association
Sacramento, CA

POSITION STATEMENT: Testified in support of SB 1.

JACKSON BLACKWELL, Student
Soldotna, Alaska

POSITION STATEMENT: Testified in support of SB 1.

MEGAN SILTA, Student
Soldotna, Alaska

POSITION STATEMENT: Testified in support of SB 1.

CHRYSTAL SCHOENROCK, Bar Owner
4Lands Bar
Nikiski, Alaska

POSITION STATEMENT: Testified in opposition to SB 1.

MELISSA MUDD, Representing herself
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 1.

GUY CARROLL, Representing himself
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to SB 1.

AUDREY A. BROWN, Representing herself
Delta Junction, Alaska

POSITION STATEMENT: Testified in support of SB 1.

DEAN GUSTAFSON, Representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 1.

CARMEN LUNDE, Director
Kodiak Alaska Cabaret, Hotel, Restaurant, and Retailers
Association (CHARR)
Kodiak, Alaska

POSITION STATEMENT: Testified in opposition to SB 1.

ISAAC HOWELL, Vape shop owner
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 1.

PATTY GINSBURG, Representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 1.

ACTION NARRATIVE

[1:32:30 PM](#)

CHAIR BERT STEDMAN called the Senate Health and Social Services Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Ellis, Stoltz, Kelly, Giessel, and Chair Stedman.

SB 1-REGULATION OF SMOKING

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CHAIR STEDMAN announced the consideration of SSSB 1 regarding the regulation of smoking. It is the first hearing on the bill.

SENATOR PETER MICCICHE, Alaska State Legislature, sponsor of SB 1, introduced the bill. He said he hoped to save lives and reduce health care costs with SB 1. He read from the following sponsor statement:

SSSB 1 seeks to safeguard working Alaskans and their children from the adverse health effects of secondhand smoke by providing a statewide smoke-free workplace law for businesses and public places. As a conservative Alaskan, I actively support a philosophy that works to limit and reduce the role of government in our daily lives. I believe Thomas Jefferson got it right when he said, "Legitimate powers of government extend to such acts only as are injurious to others." In this case, I believe that both the right to breathe smoke-free air and the significant, documented public health risks of secondhand smoke exposure compel us to view the protection of Alaska's labor force and their families as an appropriate governmental responsibility.

Similar comparisons include the government role in establishing speed limits, seat belt laws, motor vehicle design safety improvements, electrical codes, pipeline safety laws and agency responsibilities ensuring industrial employee safety regulations. There are places in our society where regulation is simply the right thing to do and that is largely why we are here today. As judicial philosopher Zechariah Chafee said in the Harvard Law Review in 1919, "Your right to swing your arm ends just where the other man's nose begins."

SSSB 1 helps to protect the rights of Alaskans who choose not to smoke. Current law prohibits smoking in

the workplace in many areas of the state, as well as in healthcare facilities, schools, childcare facilities and public meeting rooms in government buildings. Over one-half of the population of Alaska, including those in Bethel, Anchorage, Juneau, Barrow, Dillingham, Haines, Skagway, Petersburg, Klawock, Nome, Unalaska, and Palmer, are currently living under smoke-free laws similar to SSSB 1. These laws are well-established and strongly supported by citizens and businesses. For Alaskans residing in the remaining areas of the state, SSSB 1 offers a uniformly applied safeguard from secondhand smoke that is currently not available.

Why is a conservative willing to take on this issue? The reason is simply to protect the rights of the non-smoker, save lives and reduce the staggering health costs of secondhand exposure to tobacco use. Many of these costs are borne by government at great expense to taxpayers. This critical public health issue is why we are here.

The annual economic loss to Alaskans because of secondhand smoke is estimated to be in the millions of dollars, with an estimated 60 lives lost each year. The number of primary smoke fatalities is much higher. Nationally, exposure to secondhand smoke kills more than 41,000 adult non-smokers from coronary heart disease and lung cancer each year. This is more than four times the DUI fatalities each year in the U.S. While the DUI laws are rightfully stringent, the response to stop the enormous loss of life to tobacco smoke inhalation has been comparatively lax.

Many Alaskan families, including mine, continue to be adversely affected. My children prematurely lost their grandfather and I lost my father, Peter Frank Micciche, in November of 2013. He made his choice to smoke. This is not about smokers' choice to smoke. His choice to smoke in our home, gave three of our four siblings respiratory problems.

SSSB 1 does not remove the right of the smoker to choose to smoke. Rather, it limits a smoker's ability to adversely affect the health of Alaska's non-smoking employees. In other words, the bill simply asks

smokers to "take it outside" in an effort to protect Alaskan employees.

More than eight hundred Alaskan businesses and organizations representing all regions of the state have already signed on in support of a statewide smoke-free workplace law. There are also several hundred letters of opposition, with all opposing the inclusion of electronic cigarettes. They do not oppose the basic premise of the bill - protecting Alaskans from secondhand smoke.

I believe that there are many well-meaning governmental processes that are simply examples of the lack of common sense in many of our laws. Right now we are dealing with one called "positive train control." We are about to spend \$160 million in the state of Alaska - billions across the U.S. - for a law that will protect, on average, six Americans a year. At the same time that we have something called OSHA, our federal government through the power of the lobbyist, has denied dealing with the effects of secondhand smoke.

Through SSSB 1, we believe it is time to have this discussion. I urge fellow members to join me in protecting the health of innocent, non-smoking Alaskans by supporting this bill.

SSSB 1 reflects my core belief in the self-evident truth espoused in our Declaration of Independence, a desire to conserve life, to protect our liberty to be free of secondhand smoke related to lung and heart disease, and enjoy the pursuit of happiness free of this public health risk. This bill is not heavy handed and comes with no imposing enforcement action. All this bill does is asks smokers to "take it outside" out of respect for their neighbor's right to breathe clean air.

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CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, presented information related to SB 1 on behalf of the sponsor. He said SSSB 1 is about healthier citizens, spending less on health care, and addressing work places and public places. The bill offers a uniformly applied safeguard from secondhand smoke currently not available to the public. A

2012 Dittman poll shows 82 percent of Alaskans supported a statewide smoke-free indoor air law that includes restaurants and bars. Over 862 resolutions of support from organizations and business in Alaska are in members' packets, and over 1,000 supporters have been contacted so far. There is conclusive, economic proof that smoke-free air laws do not have adverse economic costs for restaurants and bars. He referred to the 2007 Cancer Journal for Clinicians and the ISER report from 2014 as evidence of no adverse economic impacts.

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CHAIR STEDMAN commented about the documentation of the presentation.

MR. KOPP provided the sources of the information.

He continued to say that SSSB 1 does not ban smoking or e-cigarettes. It does provide a statewide smoking prohibition in enclosed public spaces, public transportation vehicles and facilities, places of employment, government owned or operated places, buildings or residences used to provide paid child care, health facilities, Alaska pioneer homes and veterans' homes, vehicles that are places of employment, and certain marine vessels.

Included are school grounds or public parks for children, outdoor arena seating, and areas within certain distances from entrances, open windows, and air intake vents of places where smoking is prohibited.

The bill requires the Department of Department of Health and Social Services (DHSS) Commissioner to adopt regulations for filing, processing, and investigating reports of violations of the smoking prohibition, which may include filing complaints and issuing citations.

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He related DHSS's role in enforcing and implementing the statewide smoking prohibition is to provide education and respond to complaints.

The bill allows the DHSS Commissioner to delegate to other agencies any of the responsibilities to enforce the bill's provisions. The bill also requires a person who is in charge of a place where smoking is prohibited to display specific signage. Sec. 18.35.306(c) requires the department to furnish signs to any person who requests them.

The Division of Public Health's Tobacco Prevention and Control Program would be responsible for developing public education materials regarding the requirements within the law and for educating business owners, grantees, and the public on the specifics of the law.

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MR. KOPP explained that the bill's foundational source document is the 2014 Surgeon General Report. Over the past 50 years, 31 Surgeon General's reports have utilized the best available evidence to expand our understanding of the health consequences of smoking and involuntary exposure to tobacco smoke.

He said we have all heard the staggering statistics about the repercussions of exposure to secondhand smoke. The recent data on public health impacts from secondhand smoke suggest a public health emergency.

He focused on the premature deaths caused by smoking and exposure to secondhand smoke for 1965 to 2014. There were 263,000 cases of lung cancers caused by exposure to secondhand smoke and 2,194,000 cases of heart disease. That is over 2.5 million nonsmokers who died from secondhand smoke and over 20 million Americans total who died because of smoking. More than 100,000 babies died from sudden infant syndrome and respiratory arrest.

He described what has been learned in the last 50 years regarding smoking. Smoking and passive smoking causes disease in nearly every organ. Secondhand smoke kills nearly 41,000 nonsmokers every year, which is four times the number of DUI fatalities in 2013.

He shared the known risks that are causally linked to secondhand smoke exposure for adults and children. Stroke is the most recent addition from the Surgeon General's Office.

The annual number of deaths attributable to smoking and exposure to secondhand smoke is now approaching 500,000. Exposure to secondhand smoke has an immediate (within 30 minutes) adverse impact on the cardiovascular system, damaging blood vessels, making blood more likely to clot, and increasing the risks for heart attack and stroke. There is no safe level of secondhand exposure and it is now causally associated with a 20 percent to 30 percent increased risk for stroke.

The national cost is \$5.6 billion (in 2006) for lost productivity due to exposure to secondhand smoke. Alaska cost is 60 deaths and more than \$1,000,000 per year based on estimates of the American Cancer Society.

The evidence is sufficient to infer a causal relationship between the implementation of a smoke-free law or policy and a reduction in coronary events among people younger than 65 years of age. This is a question of rights - the choice to smoke versus the need to breathe. A clean indoor air policy does not prohibit smoking, it only requires that those who choose to smoke do so in a manner that does not threaten or harm others.

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MR. KOPP discussed e-cigarettes, which unlike traditional cigarettes, are generally battery-operated and use an atomizer to heat liquid from a cartridge until it becomes a chemical-filled aerosol. The aerosol exhaled contains nicotine, ultra-fine metal particles, volatile organic compounds and other carcinogenic toxins. There are almost 470 different brands of e-cigarettes on the market today, including 7,700 flavors. One study found e-cigarette aerosol that contained hazardous nickel and chromium at four times the level they appear in traditional cigarette smoke.

He added that the primary issue with the numbers is the profusion of brands, combined with the strong appeal to the youth market, and a maturing science and no FDA regulation or quality control currently. Most e-cigarettes are made in China and some are known to have toxics in the aerosol.

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He said, according to Alaska state law, it is illegal to sell or give any product containing nicotine to anyone under 19 years old (AS 11.76.109). Because e-cigarette retailers do not need a sales license endorsement to sell their products like tobacco retailers do, there is no program of compliance checks for youth sales in place for these retailers.

There are two proven interventions. One is a comprehensive Tobacco Prevention and Control Program - AS 44.29.020(a)(14)(C) establishes DHSS responsibility for a comprehensive smoking education, tobacco use prevention, and tobacco control program. The department's program must promote cessation among tobacco users and educate the public about the lethal effects of exposure to secondhand smoke. The second is smoke-free workplace and public places laws.

He continued to say the implementation of comprehensive clean indoor air laws has been shown to significantly reduce the incidence of heart attacks (acute myocardial infarction or "AMI"). Separating smokers from non-smokers, air cleaning technologies and ventilation systems cannot effectively and reliably protect public health. In addition to eliminating exposure of nonsmokers to secondhand smoke, smoke-free workplace laws also help to reduce tobacco use among smokers. Clean indoor air laws recognize that while an individual smoker or e-cigarette user may elect to harm themselves, they should not be allowed to injure others while doing so. "The right of smokers to smoke ends where their behavior affects the health and well-being of others; furthermore, it is the smokers' responsibility to ensure that they do not expose nonsmokers..."

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MR. KOPP turned to places that have smoke-free laws in Alaska. Only half of Alaska's population is protected by a local law from secondhand smoke at work. The remaining large population boroughs do not have the legal health powers to enact local smoke-free laws.

He summarized that Alaskans support smoke-free workplaces. He said 82 percent agree that, "All Alaskan workers should be protected from secondhand smoke in the workplace." Support for smoke-free indoor workplaces includes a strong majority of current smokers in Alaska. Alaskan support for smoke-free indoor workplaces is high throughout all regions of the state, ranging from 75 percent to 84 percent.

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SENATOR STOLTZE opined that total support for the bill should include support of SB 209 from the previous year.

CHAIR STEDMAN said that would be clarified. He noted there would be a section analysis of the bill.

SENATOR MICCICHE clarified that the letters of support are from this year. Many of the business letters are from the last version of the bill.

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MR. KOPP described Section 1 that creates new Article 4, Prohibition of Smoking in Certain Places, within AS 18.35 describing where smoking is prohibited or regulated. He read the list of prohibited places: page 1, lines 6-14 & page 2, lines 1-

3: (a) prohibits smoking in enclosed areas in public places, including enclosed areas at an entertainment venue or sports arena; in vehicles used for public transportation; at public transportation facilities and depots; at a retail store or shopping center; at places of public assembly on property owned by the state or other unit of local government.

Page 2, lines 4-17: (b) prohibits smoking in certain enclosed areas: office buildings, hotels, motels, restaurants, bars, retail stores or common areas in apartment and multiple family dwellings, a place of employment, a building or residence used to provide paid childcare, at healthcare facilities, in a vehicle that is a place of employment, at a public or private educational facility; at a residence where paid adult care is provided; at a residence in a healthcare facility, hotel, or motel; and on a marine vessel operating as a shore-based fisheries business under AS 43.75.

CHAIR STEDMAN requested a definition on page 2, line 11, regarding a vehicle that is a place of employment, and line 16, a marine vessel operating as a shore-based fisheries business.

MR. KOPP replied that a taxi and a truck are examples of a vehicle that is a place of employment. A shore-based processor is an example of a marine vessel operating as a shore-based business.

He continued to explain that page 2, lines 18-31 prohibits smoking outdoors in certain areas: at public or private schools; state or municipal parks primarily designated as a place for children to play; in seating areas for outdoor arenas, stadiums and amphitheatres; within 50 feet of an entrance to a healthcare facility, 20 feet of an entrance, open window, or heating or ventilation system air intake vent at a place where smoking is prohibited under this section; or within a reasonable distance of an entrance, open window, or heating or ventilation air intake on a marine vessel as determined by the vessel operator in charge.

CHAIR STEDMAN asked if a skipper could designate what reasonable means.

MR. KOPP said yes.

CHAIR STEDMAN requested information about how the enforcement of that provision would take place and what responsibilities the state may have.

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MR. KOPP continued the sectional analysis on page 3, lines 1-24: (d) allows smoking at a retail tobacco or e-cigarette store unless the owner or operator prohibits it, and defines "retail tobacco or e-cigarette store".

Page 3, lines 25-30: (e) allows smoking in a vehicle that is a place of employment used exclusively by one person; and on a marine vessel when it is engaged in commercial fishing or sport charter fishing.

Page 3, line 31 & page 4, lines 1-8: (f) allows smoking in a private club that does not serve alcohol and is not a place of employment, unless the club is hosting an event open to the public; defines "private club", and; allows smoking in a private residence that is not used for paid childcare.

Page 4, lines 9-16: (g) allows DHSS to adopt regulations authorizing smoking in stand-alone shelters.

CHAIR STEDMAN referred to the wording "may adopt" on page 4, line 9, and asked whether the department is, or is not, required to adopt regulations.

MR. KOPP agreed that the language is discretionary.

MR. KOPP explained the Notice of Prohibition on page 4: lines 17-30: describes the obligations of employers, owners and operators of places and vehicles where smoking is prohibited to post "no smoking" signs within those places or vehicles and at or near the entrances. This section also requires DHSS to furnish signs upon request.

He continued with the duty of employers and building managers: page 4, line 31 & page 5, lines 1-2: (a) an employer may not permit an employee, customer or other person to smoke inside an enclosed area at a place of employment.

Page 5, lines 3-5: (b) an owner, operator, or manager of a building or other place where smoking is prohibited may not provide ashtrays or other smoking accessories for use in that building or place.

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MR. KOPP explained the powers and duties of the commissioner on page 5, lines 6-16: requires the commissioner of health and

social services to administer and enforce the requirements of AS 18.35.301-18.35.399, and adopt necessary regulations to implement these requirements; allows the commissioner to delegate enforcement authority to another agency; and permits peace officers to enforce the provisions of AS 18.35.301-18.35.399.

CHAIR STEDMAN had questions about enforcement as it relates to the commissioner and the department.

MR. KOPP said there is a tobacco compliance program in place now.

MR. KOPP continued with public education on page 5, lines 17-26: requires the Commissioner of Health and Social Services to provide a program of education regarding AS 18.35.301-18.35.399 to employers, other affected parties and members of the public; and that this program may be provided in combination with the current comprehensive smoking education program established in AS 44.29.020(a)(14) which seeks in part to "prevent youth initiation of tobacco use, promote cessation among tobacco users, and educate the public about the lethal effects of exposure to secondhand smoke."

He read the sectional analysis for non-retaliation on page 5, lines 27-31, and page 6, lines 1-3: prohibits employers from discriminating against current or prospective employees because the employee or applicant cooperated with or initiated enforcement of a requirement in AS 18.35.301-18.35.399; and similarly prohibits owners or operators of vehicles or other places subject to AS 18.35.301-18.35.399 from retaliating against customers or other members of the public due to their cooperation with or initiation of enforcement of the requirements in AS 18.35.301-18.35.399.

He explained conflicts with local requirement on page 6, lines 4-9: establishes a municipality may adopt and enforce local laws with additional prohibitions on smoking or additional duties for employers, owners, operators, and other persons related to enforcement of such provisions.

He addressed violations and civil penalties on page 6, lines 10-31, and page 7, lines 1-2: requires the Commissioner of Health and Social Services to establish regulatory process for investigating reported violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326; establishes that the commissioner, upon determination that a violation has occurred, may file a

civil complaint in district court to enforce the requirements of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326, or designate an employee of the department to issue a citation for the violation; establishes a maximum fine of \$100 for violation of AS 18.35.301; establishes a bail schedule for violations of AS 18.35.306 or 18.35.311 to be not more than \$100 for a first failure to comply, \$200 for a second failure that occurs within 24 months of the first violation, and \$500 for the third and each consecutive failure to comply within 24 months of the second violation; establishes a civil penalty of not more than \$1,000 for a violation of AS 18.35.326; and allows the department to accept fine payments by mail.

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He explained citations and fines on page 7, lines 3-31, and page 8, lines 1-15: re-enacts existing law to allow a peace officer or an employee designated by the commissioner to issue citations for violations of the new law. A peace officer must personally witness a violation of AS 18.35.301 to issue a citation, but this is not the case for an employee designated by the department to issue a citation. An employee of the department may not arrest a person for a violation of AS 18.35.301, 18.35.306, 18.35.311, or 18.35.326. Fines for any violations alleged in a citation are subject to the same fine schedule described in Sec. 18.35.336. The Alaska Supreme Court will establish bail amounts for violations of AS 18.35.301, 18.35.306, 18.35.311, and 18.35.326 that do not exceed the maximum fines allowable under this section. Establishes requirements for citation format, payment of citations, and adjudication of citations.

He related the section on injunctions on page 8, lines 16-18: re-enacts existing law to permit the commissioner or another affected party to bring a civil action in superior court to enjoin a violation of the law.

He highlighted definitions on page 8, lines 19-31, and page 9, lines 1-30: Definitions are provided for business, commissioner, department, e-cigarette, employee, employer, enclosed area, health care facility, place of employment, public place, and smoking.

He concluded that Section 2 repeals existing statutes regulating smoking in public facilities. Section 3 amends the uncodified law and clarifies that the new provisions of this bill apply to violations or failures to comply that occur on or after the effective date of Section 1 of the bill. Section 4 amends the

uncodified law by adding a new section that permits the Department of Health and Social Services to adopt regulations to implement Section 1 of the bill. Regulations take effect under AS 44.62 (Administrative Procedure Act) cannot take effect before the effective date of Section 1 of the bill. Section 5 provides that Section 4 of the bill takes effect immediately under AS 01.10.070(c). Section 6 provides that, with the exception of Section 5, the rest of the bill will be effective on October 1, 2015.

SENATOR STOLTZE noted DEC is the implementer and enforcer of the smoking statutes. He said he is opposed to giving DHSS enforcement power of a toxic pollutant.

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SENATOR MICCICHE added Mr. Timmons to public testimony.

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JAY BUTLER, Chief Medical Officer, Division of Public Health, Department of Health and Social Services (DHSS), introduced himself and Deputy Director Jill Lewis.

MR. BUTLER noted an increase in the body of information related to the health effects of secondhand smoke. Some of the outcomes most highly related to secondhand smoke are sudden infant death syndrome, respiratory infection, middle ear infections, and asthma attacks in children, and lung cancer, stroke, and coronary artery disease in adults. There has been significant progress in reducing the rates of tobacco smoking in Alaska. Nationally, there have been downward trends in lung cancer rates. However, exposure of secondhand smoke continues to occur, especially in some job situations. He added that a national sample found that 40 percent of children have metabolites of nicotine in their bloodstream as a marker of exposure to secondhand smoke. It is an issue that is important to employee health, child health, and the reduction of health care costs.

CHAIR STEDMAN asked about e-cigarettes.

MR. BUTLER replied that e-cigarettes is an area where more information is needed. There is a great deal of uncertainty and it should not be assumed that they are safe. He opined that they should be addressed in the same manner as cigarettes.

REPRESENTATIVE STOLTZE asked which is the greater concern, obesity or tobacco health problems.

MR. BUTLER said it a close battle. Tobacco is easier to address and to translate into reduced health care costs and better health.

SENATOR KELLY asked which is worse, secondhand smoke or obesity.

MR. BUTLER said that is a hard question to answer. Regarding secondhand smoke and obesity, he opined that obesity is the greater health risk.

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CHAIR STEDMAN asked about enforcement of the regulations.

JILL LEWIS, Deputy Director, Division of Public Health, Department of Health and Social Services (DHSS), said enforcement would be handled by the Division of Behavior Health, which currently enforces retail tobacco sales to minors. The division envisions that enforcement would consist of a series of letters, notices, and warnings that would minimize the cost of investigations and the need for sanctions. This method has been successful in other jurisdictions with similar laws.

CHAIR STEDMAN pointed out that the state is trying to shrink departments due to budgetary constraints. He wondered if this responsibility is an expansion of the division.

MS. LEWIS said it was passive enforcement and could be absorbed by the division.

CHAIR STEDMAN asked how enforcement would work.

MS. LEWIS explained that there would be an 800 number for people to call to make a complaint, followed by a letter of warning from the Tobacco Enforcement Team, and then a warning and continuing escalation, if necessary. At the same time, the division has the role of education with grantees throughout the state working on reducing tobacco use.

CHAIR STEDMAN asked if the division wants the additional duties or would they be better done by another department.

MS. LEWIS replied that enforcement is not a core function of the division, but it could be absorbed.

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SENATOR GIESSEL referred to page 7 of the bill where it mentions a peace officer citation if the infraction happens in the

officer's presence. She assumed that law enforcement is also involved.

MS. LEWIS said it is involved. Under the division's more passive type of enforcement, if a citation is needed, a law enforcement officer would act on the division's behalf. The division's Tobacco Enforcement Team currently has a close partnership with local law enforcement.

SENATOR STOLTZE asked if the bill is specific to tobacco.

MR. BUTLER said it is, but he recommended that it address marijuana, also. He noted the uncertainty with enforcement is more complicated with e-cigarettes.

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SENATOR KELLY asked about the wording, "Nothing in this section prohibits smoking at a private club that does not serve alcoholic beverages ..." on page 4, line 3.

SENATOR MICCICHE explained that the bill attempts to match Anchorage's ordinance.

MR. KOPP clarified that the key word is "serving" alcohol because that would involve an employee being in the building. The intent is to protect the employee.

SENATOR KELLY thought "alcohol" could be removed because "serving" is the operating word. He suggested "a private club that does not serve beverages."

He asked what the current provisions are for communities that have already adopted a policy or could adopt one on their own.

SENATOR MICCICHE explained that many communities do not have the power to regulate smoking. The previous version of the bill had an opt-out provision for those who could.

CHAIR STEDMAN noted that several communities have ordinances on their books. He asked why the state is dictating to municipalities.

SENATOR MICCICHE clarified that many areas of the state, such as unincorporated communities, do not have the power to regulate smoking and the bill protects them. Half the population in the state falls into this category.

CHAIR STEDMAN requested information on the classes of communities this would affect.

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SENATOR GIESSEL asked if the bill would prohibit smoking in American Legion Clubs, which serve alcohol. She asked if Senator Micciche has consulted any of those clubs.

SENATOR MICCICHE said he has. Some veterans enjoy the smoking; some are against smoking. Many are supportive, but don't want to be public about it. Younger soldiers are avoiding clubs because they are not smoke free and they don't want to bring their families into that environment.

SENATOR STOLTZE asked if VFW patrons can have a segregated smoking area.

SENATOR MICCICHE said they cannot; they can have a separate smoking shelter that may be heated.

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SENATOR KELLY said OSHA from DCCED enforces air quality in the workplace. He wondered if smoking exceeds air quality standards in the workplace and why OSHA couldn't enforce this law.

SENATOR MICCICHE replied that he has not measured air quality as it relates to smoking. In Anchorage DHSS is responsible for enforcing the smoke-free ordinances. He pointed out that at the federal level there is opposition to this bill. It has been difficult to classify tobacco smoke so that state or federal OSHA would regulate it. He opined that tobacco smoke far exceeds many other dangerous materials.

SENATOR KELLY was under the impression that secondhand smoke dangers are overrated. He wanted to know the true facts.

CHAIR STEDMAN requested the sponsor to provide research on secondhand smoke.

SENATOR MICCICHE said he would be happy to.

SENATOR KELLY said the junk science is what he doesn't want.

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SENATOR STOLTZE commented on the statement about corporate funding of the opposition. He maintained that he has only seen

state-finance advertising campaigns. He requested an accounting of promotional efforts.

SENATOR MICCICHE responded to questions from previous speakers. He said smoking is defined on page 9, paragraph (11) as "smoking means using an e-cigarette or other oral smoking device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette, pipe or tobacco or plant product intended for inhalation." He concluded that a person would not be able to smoke marijuana inside.

He noted the number of citations in Anchorage is very small. Enforcement is not heavy-handed; the bill is making a statement. The bill has no comparison with regulating the size of a sugary drink and it is worthy of respectful consideration.

[2:37:20 PM](#)

CHAIR STEDMAN opened public testimony.

JERRY TIMMONS, representing himself, noted he has submitted written testimony, as well. He shared his story about lung cancer from secondhand smoke as a non-smoker in a government office. He testified in support of SB 1 in order to eliminate or reduce the effects of secondhand smoke for people in the workforce.

[2:39:50 PM](#)

KATHIE WASSERMAN, Executive Director, Alaska Municipal League, testified against SB 1. She noted there are reasons 152 municipalities have not adopted smoking regulations. She stressed that there is no way to have the law enforced in at least 115 of those municipalities. She maintained that smoking regulations should be decided by local control. She said DHSS has difficulty dealing now with alcohol and child abuse issues in rural communities.

[2:41:48 PM](#)

MELISSA WANAMAKER, Development Director, American Heart Association, testified in support of SB 1. She shared statistics about the dangers and costs smoking. She concluded that half of Alaska is not able to make regulations regarding smoking.

KRISTIN LUBY, Business Development Director, American Heart Association, testified in support of SB 1. She shared statistics related to the dangers of secondhand smoke. Only half of Alaska is covered by smoke-free workplace law.

[2:44:02 PM](#)

JACK DUCKWORTH, representing himself, testified in support of SB 1. He said that where he lives, Ketchikan, does not have smoke-free regulations. He shared his story, as a non-smoker, of getting cancer from secondhand smoke from his parents.

JAMIE MORGAN, Government Regulations, American Heart Association, testified in support of SB 1. She concurred with the other speakers from the American Heart Association.

JACKSON BLACKWELL, Student, testified in support of SB 1. He opined that no one should have to be exposed to the hazards of secondhand smoke, including e-cigarettes because they are not regulated. He listed reasons why all smoking products should be banned in public places.

[2:47:50 PM](#)

MEGAN SILTA, Student, testified in support of SB 1. She said she believes that everyone has a right to a healthy body and lungs. She said that students want a smoke-free environment in the work force.

CHRYSTAL SCHOENROCK, Bar Owner, 4Lands Bar, testified in opposition to SB 1. She said, as a small business owner, she cannot afford to lose any business over smoking regulations. She thinks this bill is interference by the government.

[2:50:30 PM](#)

MELISSA MUDD, representing herself, testified in support of SB 1. She maintained that the law will protect employees and customers from the dangers of secondhand smoke, as well as save money for taxpayers and indirect costs of smoking. She said many Alaskans live in unincorporated or rural areas where they are not able to adopt smoking ordinances.

GUY CARROLL, representing himself, testified in opposition to SB 1. He shared his attempts to quit smoking and the solution vaping provided. He does not believe a statewide smoking ban is necessary and business owners should have the right to decide what works best for their customers and employees. He concluded that vape shops should be allowed and vaping is not smoking.

[2:54:07 PM](#)

AUDREY A. BROWN, representing herself, testified in support of SB 1 in light of all the science that shows the negative health impacts caused by secondhand smoke and the negative economic impacts.

DEAN GUSTAFSON, representing himself, testified in support of SB 1. He shared his family's personal story of exposure to secondhand smoke.

[2:55:56 PM](#)

CARMEN LUNDE, Director, Kodiak Alaska Cabaret, Hotel, Restaurant, and Retailers Association (CHARR), testified in opposition to SB 1. She maintained that a just government should not have the right to ban smoking on private property, tell smokers to quit, or punish them if they don't. There are 18 non-smoking businesses and 3 smoking businesses in Kodiak, which gives everyone a choice. The choice to go non-smoking should be made by the owners.

ISAAC HOWELL, Vape shop owner, testified in opposition to SB 1. He described the high quality of products in his vape store. He said he has no connections with big tobacco companies.

PATTY GINSBURG, representing herself, testified in support of SB 1. She shared her story as a lung cancer survivor. She maintained that secondhand smoke causes lung cancer. She said the bill will save lives and protect the rights of Alaskans to breathe clean air on the job.

CHAIR STEDMAN held SSSB 1 in committee.

[3:01:15 PM](#)

There being nothing further to come before the committee, adjourned the Senate Health and Social Services Standing Committee at 3:01 p.m.