

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

February 9, 2015

1:34 p.m.

MEMBERS PRESENT

Senator Lesil McGuire, Chair
Senator John Coghill, Vice Chair
Senator Mia Costello
Senator Peter Micciche
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 35

"An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

- HEARD & HELD

Select Committee on Legislative Ethics

Herman G. Walker, Public Member
Dennis "Skip" Cook, Public Member

- CONFIRMATIONS ADVANCED

SENATE BILL NO. 30

"An Act relating to controlled substances; relating to marijuana; relating to driving motor vehicles when there is an open marijuana container; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 35

SHORT TITLE: 2015 REVISOR'S BILL

SPONSOR(S): RULES BY REQUEST OF LEGISLATIVE COUNCIL

01/30/15 (S) READ THE FIRST TIME - REFERRALS

01/30/15 (S) JUD
02/09/15 (S) JUD AT 1:30 PM BUTROVICH 205

BILL: SB 30

SHORT TITLE: MARIJUANA REG;CONT. SUBST;CRIMES;DEFENSES

SPONSOR(s): JUDICIARY

01/23/15 (S) READ THE FIRST TIME - REFERRALS
01/23/15 (S) JUD, FIN
01/26/15 (S) JUD AT 1:00 PM BUTROVICH 205
01/26/15 (S) Heard & Held
01/26/15 (S) MINUTE(JUD)
01/28/15 (H) JUD AT 1:00 PM CAPITOL 120
01/28/15 (H) -- Companion Bill --
01/30/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
01/30/15 (S) -- Meeting Postponed to Monday 2/2/2015
02/02/15 (S) JUD AT 1:30 PM BUTROVICH 205
02/02/15 (S) -- Rescheduled from 01/30/15 --
02/05/15 (S) FIN AT 9:00 AM SENATE FINANCE 532
02/05/15 (S) Scheduled but Not Heard
02/06/15 (S) JUD AT 1:30 PM BUTROVICH 205
02/06/15 (S) -- MEETING CANCELED --
02/09/15 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

LISA KIRSCH, Assistant Revisor of Statutes
Legislative Legal and Research Services
Legislative Affairs Agency

POSITION STATEMENT: Presented SB 35.

HERMAN G. WALKER, Public Member
Select Committee on Legislative Ethics

POSITION STATEMENT: Testified as nominee to the Select Committee on Legislative Ethics.

DENNIS "SKIP" COOK, Public Member
Select Committee on Legislative Ethics

POSITION STATEMENT: Testified as nominee to the Select Committee on Legislative Ethics.

JEFF PICKETT, Contract Attorney

POSITION STATEMENT: Provided a brief description of the differences between versions N and I of SB 30.

HILARY MARTIN, Attorney
Legislative Legal and Research Services

Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: Legislative drafter of SB 30.

ACTION NARRATIVE

[1:34:11 PM](#)

CHAIR LESIL MCGUIRE called the Senate Judiciary Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Coghill, Micciche, Wielechowski, and Chair McGuire. Senator Costello arrived soon thereafter.

SB 35-2015 REVISOR'S BILL

[1:36:48 PM](#)

CHAIR MCGUIRE announced the consideration of SB 35. "An Act making corrective amendments to the Alaska Statutes as recommended by the revisor of statutes; and providing for an effective date."

[1:37:00 PM](#)

LISA KIRSCH, Assistant Revisor of Statutes, Legislative Legal and Research Services, Legislative Affairs Agency, explained that the Revisor's Bill is a clean-up bill to correct and remove deficiencies, conflicts and obsolete provisions. It does not make substantive changes. A statutory section in Title 1 allows changes that often are typographical errors, drafting errors, or citation changes.

MS. KIRSCH stated that SB 35 corrects some citations to federal law and corrects the format of some court rule citations. In some places singular has become plural or plural has become singular to fit the context of the sentence. There are a few instances that the words "but not limited to" was removed from the phrase "including but not limited to" because it is included by implication. Finally, the word "the" was missing in a couple of places and the word "with" was mistakenly left out. Finally, there were a few changes in punctuation and word usage.

CHAIR MCGUIRE noted that the bill packets contain a detailed sectional analysis. She asked if the bill makes any type of substantive change.

MS. KIRSCH replied Legislative Legal tries very hard to avoid that, but there can be differences of opinion in the interpretation of a statute.

SENATOR MICCICHE asked if there is a process if a bill that passed during a previous legislature is found to be in conflict with an existing statute.

MS. KIRSCH explained that manifest errors can be corrected in the Revisor's Bill, but if it requires legislation to correct the conflict there isn't much the revisor can do to correct that.

1:42:38 PM

SENATOR COGHILL asked why the sections listed in Section 61 are being deleted.

MS. KIRSCH explained that all three are definitions that are no longer used. AS 19.75.980(4) is the definition of "state bond committee" for the Knik Arm Bridge and Toll Authority (KABATA) project. The provisions relating to bonding were deleted when KABATA lost its bonding authority, but the definition in paragraph (4) was overlooked. Second, the definition of "motor vehicle salesperson" in AS 45.25.990(14) was overlooked when the term was edited out of a bill that passed in 2002. Third, AS 46.03.900(31) is a definition for "subdivision" that is no longer used in that part of the statutes.

SENATOR COGHILL requested an explanation of the effective date clauses.

MS. KIRSCH advised that a July 1, 2015 effective date for section 35 is created to allow all changes to the statute section to take effect on the same date.

1:46:41 PM

CHAIR MCGUIRE asked if any member of the legislature has asked to include recommendations in the Revisor's Bill.

MS. KIRSCH replied she couldn't say for certain, because she receives suggestions from a variety of sources and some initially may have come from a legislator.

CHAIR MCGUIRE clarified that she wants it to be part of the public record if a legislator making a request or suggestion about a substantive matter.

MS. KIRSCH advised that she probably could not reveal it if she was aware that it was an attorney-client communication with a legislator as a client. In this instance, she was unaware that

any of the changes are a result of written communication from a legislator.

CHAIR MCGUIRE said she asks because despite best efforts and good intentions, a Revisor's Bill may sometimes include something that is more policy directed by an elected official. That is something the public would want to know about.

SENATOR WIELECHOWSKI referenced pages 3, 19, and 33 and questioned whether deleting "but not limited to" from the phrase "including but not limited to" might actually limit the reference to the specific things listed.

[1:50:39 PM](#)

MS. KIRSCH explained that it is in accordance with the statutory provision in AS 01.10.040(b), which applies throughout Alaska statutes.

(b) When the words "includes" or "including" are used in a law, they shall be construed as though followed by the phrase "but not limited to."

She said that deleting the terms does not change the meaning, but it is up to the body if that raises concerns.

CHAIR MCGUIRE summarized that it could be included but doing so would be redundant.

MS. KIRSCH agreed.

SENATOR WIELECHOWSKI requested an explanation of the lengthy addition in subparagraph (N) on page 7.

MS. KIRSCH replied that is responsive to the previous Section 10 on page 4 that lists the things required to appear in the Articles of Incorporation, whereas the provisions set out in Section 11 are permissive. The provision in subparagraph (N) is removed from the mandatory provisions and added to the optional provisions in [Sec. 10.06.208].

[1:54:18 PM](#)

CHAIR MCGUIRE announced she would hold SB 35 in committee for further consideration.

Confirmation Hearings: Select Committee on Legislative Ethics

[1:55:19 PM](#)

CHAIR MCGUIRE announced the next business before the committee would be confirmation hearings.

She recognized Herman Walker who has been reappointed to serve on the Select Committee on Legislative Ethics. She asked him to tell the committee about his length of service and why he wants to continue.

[1:56:23 PM](#)

HERMAN G. WALKER, reappointed Public Member, Select Committee on Legislative Ethics, said he's served on the committee since 2002 and he thought long and hard about whether he wanted to serve another term. He ultimately decided that with his institutional memory and experience he could continue to be of service to the state in this capacity.

CHAIR MCGUIRE informed the listening public that the executive director for the Select Committee on Legislative Ethics conducts annual legislative training for staff and members. She said it's an honor that the commissioners also attend the sessions and listen to the questions that are asked. She thanked Mr. Walker for his service and described his wealth of knowledge as invaluable to the state.

SENATOR COGHILL expressed appreciation for Mr. Walker's sense of duty and institutional memory. This is particularly important this year because the Select Committee on Legislative Ethics has a new executive director.

CHAIR MCGUIRE noted that a letter was forthcoming on the subject of redistricting and communication with constituents.

[1:58:55 PM](#)

CHAIR MCGUIRE recognized Dennis "Skip" Cook who has been reappointed to serve on the Select Committee on Legislative Ethics. She asked him to tell the committee why he wants to continue to serve on the committee.

[1:59:57 PM](#)

DENNIS "SKIP" COOK, reappointed Public Member, Select Committee on Legislative Ethics, said he has served since 1998 and has enjoyed the people he's worked with and the challenging issues that have come before the commission. He appreciates that the training aspect and the informal advice has transitioned to a preventative function. He said he agreed to serve another term primarily to provide continuity as the commission transitions to

a new executive director. It can be a difficult time and continuity can be helpful, he said.

CHAIR MCGUIRE thanked Mr. Cook for his service and for making time to take part in the legislative training each year.

[2:02:07 PM](#)

SENATOR MICCICHE said he is an alternate on the ethics committee this year and a legislator came to him after he was approached by ethics staff about a potential issue. As it turned out the matter was a non-issue, but it took some time for the ethics staff to inform the legislator about the nature of the question. He asked Mr. Cook to comment on the potential gap in the procedure for contacting legislators while a question is being evaluated and whether there may be room for improvement in that process.

MR. COOK apologized and suggested that some of the gaps in communication stem from the fact that the committee underwent two transitions after Joyce Anderson retired. Her immediate successor lasted a very short time and the current executive director is relatively new to the position. He expressed hope that there would be no further gaps in communication.

SENATOR MICCICHE said it may be worthwhile to establish a clear procedure for communicating with legislators when an ethics question arises.

MR. COOK committed to be watchful.

CHAIR MCGUIRE noted that Jerry Anderson, the new executive director of the Select Committee on Legislative Ethics, was online and available to answer question.

At-ease from 2:06:17 p.m. to 2:06:47 p.m.

[2:06:47 PM](#)

CHAIR MCGUIRE moved and asked unanimous consent to forward the names Dennis "Skip" Cook and Herman G. Walker for public members on the Select Committee on Legislative Ethics to the full body for consideration. She stated that in accordance with AS 24.60.130, the committee has reviewed the qualifications of the appointees. She issued the reminder that it does not reflect an intent of any member to vote for or against the confirmations during a subsequent session.

SB 30-MARIJUANA REG;CONT. SUBST;CRIMES;DEFENSES

[2:07:49 PM](#)

CHAIR MCGUIRE announced the consideration of SB 30.

[2:08:06 PM](#)

JEFF PICKETT, Contract Attorney, informed the committee that he graduated from the University of Washington Law School in 1996 and has practiced law in Alaska since 1998. He said he looks forward to assisting the committee.

CHAIR MCGUIRE asked Mr. Pickett to comment on the two versions of SB 30.

MR. PICKETT explained that the previous draft provided a [defense] to a charge for conduct that Ballot Measure 2 made legal. That raised concern among sponsors of the ballot measure because that structure places the onus on the defendant to assert a [defense]. The current version I changes the structure and makes legal the conduct that the initiative addressed.

CHAIR MCGUIRE agreed with the summary and noted that the previous version was described as being drafted according to the Napoleonic Code as opposed to Angelo Saxon law. The conduct was prohibited but a person could mount a defense. The initiative sponsors said it placed a burden on individual Alaskans that was not intended. The committee members in both the House and Senate agreed unanimously there was a problem with that structure. The current draft allows Alaskans who are age 21 and older to possess one ounce of marijuana.

She highlighted that the current draft does not change the marijuana definition. It does retain the references to driving while impaired and the committee has agreed that it will use the definition of impaired driving in current Alaska statutes. She clarified for the watching public that on February 24, 2015 it will not be legal to buy marijuana because there will be no licensed establishments from which to buy it. Licensing will be addressed in a separate piece of legislation.

CHAIR MCGUIRE solicited a motion to adopt the proposed work draft committee substitute (CS) for SB 30.

[2:16:06 PM](#)

SENATOR COSTELLO moved to adopt the work draft CS for SB 30, labeled 29-LS0231\I.

CHAIR MCGUIRE found no objection and version I was before the committee.

2:16:31 PM

HILARY MARTIN, Drafting Attorney, Legislative Legal and Research Services, Legislative Affairs Agency, explained that this draft removes marijuana, hash, and hash oil from the controlled substance schedule so marijuana is no longer included anywhere the term "controlled substance" appears. She suggested that another important change that members should carefully review is Section 50, which creates new marijuana crimes.

SENATOR COSTELLO noted that the title of the bill has not changed.

MS. MARTIN said she looked at the title and believes it is fairly descriptive. She offered to look at it again if there were any questions.

SENATOR COSTELLO responded that she raised the point as a matter of record.

CHAIR MCGUIRE thanked Ms. Martin for her work on the bill and welcomed Mr. Pickett to the team.

SENATOR COGHILL said that at some point he would like Ms. Martin or Mr. Pickett to discuss the levels of proof in Section 50. That is where he would start to review the bill.

CHAIR MCGUIRE said she likes the idea of starting with that section because that is where marijuana starts to be regulated like alcohol. She said she would also like the initiative sponsors to offer their perspective. She asked the members to think about whether the crimes and penalties are appropriate and if they see problems arising because marijuana is no longer classified as a controlled substance.

SENATOR MICCICHE recommended the public review the legislation because it is a reminder of the conduct a person should not engage in when consuming either alcohol or marijuana. For example, it is not legal to move uphill on a tramway while impaired by alcohol or marijuana; a nursing license may be denied, suspended, or revoked for a person who habitually uses alcoholic beverages or marijuana; a pawnbroker may not knowingly complete a transaction with someone under the influence of alcohol or marijuana.

[2:28:05 PM](#)

CHAIR MCGUIRE said the current draft is an attempt to tell the public where marijuana use fits in society.

SENATOR MICCICHE commented that the bill appears to meet the voters' intent to legalize the possession of up to one ounce of marijuana, but Ravin still governs for securing marijuana. It has to magically appear until the licensing regulations are established.

CHAIR MCGUIRE agreed.

SENATOR MICCICHE restated that on February 24 it will be legal to possess marijuana, but it will still be illegal to purchase it.

SENATOR WIELECHOWSKI suggested that the committee would benefit from input from the public about the use of medical marijuana; giving police officers with probable cause the right to administer a somewhat invasive test for marijuana; and the notion of criminalizing children's conduct when the trend has been rehabilitation and lesser penalties.

[2:32:48 PM](#)

SENATOR MICCICHE said he has heard from the public about establishing better options for youths who use marijuana. He asked if changes to the alcohol laws could be included in SB 30 or if it would require separate legislation.

SENATOR MCGUIRE replied anything can be put in a bill as long as it does not violate the single subject rule. However, if there are political ramifications it may be better in a bill by itself.

SENATOR COGHILL offered his opinion that adding alcohol to the title would cause problems. He acknowledged that the minor consuming issues and the penalties and requirements in Title 4 don't always fit well.

SENATOR MICCICHE suggested it would be a good idea to keep an eye on the progress of the administration's rewrite of Title 4 to ensure that there is consistency.

CHAIR MCGUIRE announced she would hold SB 30 in committee.

[2:35:57 PM](#)

There being no further business to come before the committee,
Chair McGuire adjourned the Senate Judiciary Standing Committee
meeting at 2:35 p.m.