

**ALASKA STATE LEGISLATURE  
SENATE JUDICIARY STANDING COMMITTEE**

March 28, 2016

2:11 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Lesil McGuire, Chair

**COMMITTEE CALENDAR**

SENATE BILL NO. 112

"An Act establishing procedures related to a petition for adoption of a child in state custody; adding a definition of 'proxy for a formal petition'; amending Rule 6(a), Alaska Adoption Rules; and providing for an effective date."

- MOVED CSSB 112(JUD) OUT OF COMMITTEE

SENATE BILL NO. 8

"An Act relating to the regulation and production of industrial hemp."

- HEARD & HELD

SENATE BILL NO. 165

"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 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."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 112

SHORT TITLE: ADOPTION OF CHILD IN STATE CUSTODY

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

04/16/15 (S) READ THE FIRST TIME - REFERRALS  
04/16/15 (S) HSS, JUD  
01/25/16 (S) HSS AT 1:30 PM BUTROVICH 205  
01/25/16 (S) Heard & Held  
01/25/16 (S) MINUTE(HSS)  
02/22/16 (S) HSS AT 1:30 PM BUTROVICH 205  
02/22/16 (S) Moved CSSB 112(HSS) Out of Committee  
02/22/16 (S) MINUTE(HSS)  
02/24/16 (S) HSS RPT CS 1DP 2DNP 2NR NEW TITLE  
02/24/16 (S) DP: ELLIS  
02/24/16 (S) DNP: KELLY, STOLTZE  
02/24/16 (S) NR: STEDMAN, GIESSEL  
03/02/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/02/16 (S) Scheduled but Not Heard  
03/16/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
03/16/16 (S) Heard & Held  
03/16/16 (S) MINUTE(JUD)  
03/28/16 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 8

SHORT TITLE: INDUSTRIAL HEMP PRODUCTION LICENSES

SPONSOR(s): SENATOR(s) ELLIS

01/21/15 (S) PREFILE RELEASED 1/9/15  
01/21/15 (S) READ THE FIRST TIME - REFERRALS  
01/21/15 (S) RES, JUD, FIN  
03/20/15 (S) RES AT 3:30 PM BUTROVICH 205  
03/20/15 (S) Heard & Held  
03/20/15 (S) MINUTE(RES)  
03/27/15 (S) RES AT 3:30 PM BUTROVICH 205  
03/27/15 (S) Moved SB 8 Out of Committee  
03/27/15 (S) MINUTE(RES)  
03/30/15 (S) RES RPT 1DP 4NR  
03/30/15 (S) DP: WIELECHOWSKI  
03/30/15 (S) NR: GIESSEL, COSTELLO, COGHILL,  
MICCICHE  
04/10/15 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)  
04/10/15 (S) -- MEETING CANCELED --  
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)

BILL: SB 165

SHORT TITLE: ALCO. BEV. CONT. BOARD; MINORS; ALCOHOL

SPONSOR(S): SENATOR(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)

**WITNESS REGISTER**

CHRISTY LAWTON, Director  
Office of Children's Service  
Department of Health and Social Services (DHSS)  
Juneau, Alaska

**POSITION STATEMENT:** Presented information on SB 112.

MELANIE BAHNKE, President  
Kawerak, Inc  
Nome, Alaska

**POSITION STATEMENT:** Testified in support of SB 112.

NICOLE BORROMEO, General Counsel  
Alaska Federation of Natives  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 112.

KATHERINE LYBRAND, Assistant Attorney General  
Child Protection Services  
Civil Division  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Presented information on SB 112.

ELIZABETH MEDICINECROW, President & CEO

First Alaskans Institute  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SB 112.

SENATOR JOHNNY ELLIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 8.

SARAH EVANS, Staff  
Senator Johnny Ellis  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented the sectional analysis for SB 8.

FRANK TURNEY, Hemp Activist  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 8.

KAT UTLEY, representing herself  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of SB 8.

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

**POSITION STATEMENT:** Provided an overview of SB 165 on behalf of the sponsor.

CYNTHIA FRANKLIN, Director  
Alcohol Beverage and Control (ABC) Board and  
Marijuana Control Board  
Department of Commerce, Community and Economic Development  
Anchorage, Alaska

**POSITION STATEMENT:** Provided information on SB 165.

#### **ACTION NARRATIVE**

[2:11:57 PM](#)

**VICE CHAIR JOHN COGHILL** called the Senate Judiciary Standing Committee meeting to order at 2:11 p.m. Present at the call to order were Senators Costello, Wielechowski, and Vice Chair Coghill. He reviewed the agenda.

#### **SB 112-ADOPTION OF CHILD IN STATE CUSTODY**

2:13:17 PM

VICE CHAIR COGHILL announced the consideration of SB 112. He noted this is the second hearing and there is a new committee substitute (CS).

SENATOR COSTELLO moved to adopt the work draft CS for SB 112, labeled 29-GS1262\I, as the working document.

VICE CHAIR COGHILL objected for discussion purposes.

2:14:01 PM

At ease

2:14:19 PM

VICE CHAIR COGHILL listed the individuals available to answer questions and asked Ms. Lawton to describe the changes in version I.

CHRISTY LAWTON, Director, Office of Children's Service, Department of Health and Social Services (DHSS), presented information on SB 112. She noted the only difference between versions P and I are the words "interested in immediate permanent placement" added on page 8, lines 3 and [8] of version I. This language would mirror language in other sections of the bill.

SENATOR COSTELLO asked whether "family friend" is in the bill.

MS. LAWTON clarified that she meant to say "family member."

She continued to explain that the bill achieves several things. It brings the concept of one judge/one family for all legal proceedings that might occur for a child into Child in Need of Aid (CINA) matters. This will create efficiencies, save money, and expedite the process of children going into, or leaving, foster care. The bill also provides a vehicle to ensure provisions under the 1978 Indian Child Welfare Act (ICWA) that specify adoption placement preferences for American Indian and Alaska Native Children are preserved.

She related that a U.S. Supreme Court case last year made a decision that did not consider adoption preferences under ICWA. She stated that DHSS wanted to preserve what is intended under ICWA. The proxy in SB 112 is intended to do that. She concluded that the bill benefits all Alaskans and complies with federal law.

VICE CHAIR COGHILL withdrew his objection and version I was before the committee.

He opened public testimony.

[2:20:12 PM](#)

MELANIE BAHNKE, President, Kawerak, Inc., testified in support of SB 112. She related three reasons Kawerak supports the bill. It does away with adoption barriers for Alaska Native families by defining a proxy in lieu of a formal petition for adoption. It ties adoption proceedings with the underlying CINA proceedings, which will save the state resources and money. It also furthers the state's compliance with ICWA.

[2:22:20 PM](#)

NICOLE BORROMEO, General Counsel, Alaska Federation of Natives (AFN), testified in support of SB 112. She echoed comments of the previous two speakers. She noted that AFN has been working hard with the department on this issue.

SENATOR COSTELLO thanked Ms. Borromeo for calling in.

SENATOR WIELECHOWSKI asked about Section 2 regarding what happens if a party objects to the venue where the proceedings take place.

MS. LAWTON replied the intention is to get the parties to agree. If someone objects, the hearing would stay within the CINA proceeding. She did not expect many objections.

SENATOR WIELECHOWSKI asked what happens if there is an out-of-state petitioner.

[2:25:36 PM](#)

KATHERINE LYBRAND, Assistant Attorney General, Child Protection Services, Civil Division, Department of Law, presented information on SB 112. She explained that the bill does not consider out-of-state petitioners. Those individuals would have to go through the interstate compact for placement of children process.

SENATOR WIELECHOWSKI asked if tribal courts could preside over guardianship or adoption proceedings.

MS. LYBRAND responded that the bill will not affect tribal jurisdiction proceedings. She provided an example.

SENATOR WIELECHOWSKI noted U.S. Supreme Court cases regarding this issue and inquired whether Alaska recognizes tribal court decisions.

MS. LYBRAND clarified that SB 112 does not seek to modify tribal jurisdiction.

SENATOR WIELECHOWSKI asked what happens when one parent wants to go through a tribal court and the other does not.

[2:27:40 PM](#)

MS. LAWTON explained that in Alaska there are three tribes that have exclusive jurisdiction over CINA proceedings. The state holds concurrent jurisdiction over all other tribes. When there is a family member who is not happy with the state's jurisdiction, the courts and tribal courts try to solve the disagreement.

VICE CHAIR COGHILL said it is an area of growing law. This bill allows for collaborating at the highest level possible.

[2:28:37 PM](#)

ELIZABETH MEDICINECROW, President & CEO, First Alaskans Institute, testified in support of SB 112. She said that First Alaskans Institute is a statewide non-profit organization. She stressed that every child, in their eyes, is a leader. She described some of the Institute's programs and the importance of children's connection to their communities, families, and cultures. She thanked the committee for its work.

[2:30:17 PM](#)

VICE CHAIR COGHILL agreed that every child is a leader.

He withdrew his objection.

[2:30:52 PM](#)

SENATOR COSTELLO moved to report the CS for SB 112(JUD), version 29-GS1262\I, from committee with individual recommendations and attached zero fiscal notes.

VICE CHAIR COGHILL announced that without objection, CSSB 112(JUD) is reported from the Senate Judiciary Standing Committee.

**SB 8-INDUSTRIAL HEMP PRODUCTION LICENSES**

[2:31:41 PM](#)

VICE CHAIR COGHILL announced the consideration of SB 8. He noted this is the first hearing on the bill.

[2:32:17 PM](#)

SENATOR JOHNNY ELLIS, Alaska State Legislature, as sponsor, introduced SB 8. He stated that the bill would change state law to make the cultivation of industrial hemp legal. He called it the "Freedom to Farm" bill. He said there is a committee substitute (CS) for the committee to consider and it has no fiscal impact. He noted there has been no opposition to the bill and it has received statewide support. The bill says "no" to federal overreach.

SENATOR ELLIS related that industrial hemp is an ancient crop that has been cultivated by humans for thousands of years. Hemp got caught up in the anti-drug hysteria at the federal level in a very ignorant fashion. He said that George Washington, John Adams, and Thomas Jefferson all grew hemp on their personal farms. The first draft of the U. S. Constitution was written on hemp paper.

He stated that Alaskan industrial hemp production is a tool to fight federal overreach. SB 8 gives Alaskans the freedom to farm and rejects any need for federal approval. The freedom to farm issue also brings Republicans and Democrats together, even on the federal level. At least 28 other states embrace pilot studies and/or hemp production.

He referred to a handout that described the uses and benefits of hemp.

[2:37:25 PM](#)

VICE CHAIR COGHILL asked if version W was before the committee. He said he is supportive of the bill.

[2:37:54 PM](#)

SENATOR COSTELLO moved to adopt the work draft CS for SB 8, labeled 29-LS0195\W, as the working document.

VICE CHAIR COGHILL objected for discussion.

[2:38:21 PM](#)

SARAH EVANS, Staff, Senator Johnny Ellis, Alaska State Legislature, presented the sectional analysis of SB 8. She said Section 1 defines industrial hemp, which means all parts and varieties of the plant containing not more than .3 percent THC.

Section 2 is amended by adding a new subsection to read:

In a prosecution under AS 11.71.030 - 11.71.060 charging the manufacture, delivery, possession, possession with intent to manufacture or deliver, or display of a schedule VIA controlled substance, it is an affirmative defense that the controlled substance is industrial hemp.

VICE CHAIR COGHILL said it is a schedule VIA drug.

MS. EVANS continued to say that Section 3 adds a new subsection:

An individual manufacturing, delivering, or displaying industrial hemp is not required to apply for licensure or be licensed under this section. In this subsection, "industrial hemp" has the meaning given in AS 11.71.900.

VICE CHAIR COGHILL asked for the genesis of the change.

MS. EVANS explained that in the previous version of the bill, there were a variety of licenses and permits required. After checking with the Department of Agriculture, she found that industrial hemp did not require those licenses and permits because industrial hemp is legal.

[2:42:26 PM](#)

VICE CHAIR COGHILL opened public testimony.

[2:42:32 PM](#)

FRANK TURNEY, Hemp Activist, testified in support of SB 8. He noted the support of many others for the bill, such as the City of Fairbanks, North Star Borough Assembly member John Davies, and the North Pole City Council. He agreed that Alaska should embrace this economic, free-market opportunity. He pointed out that the United States imports approximately 2 billion hemp products annually. He said there are over 50,000 products that can be made out of hemp. He thanked Senator Ellis for the bill.

KAT UTLEY, representing herself, testified in support of SB 8. She said she and her husband are peony growers and she spoke in support of the hemp farming industry. She shared information about the benefits of hemp plants and the potential for jobs.

VICE CHAIR COGHILL kept public testimony open.

He removed his objection and version W was adopted.

He held SB 8 in committee.

[2:51:27 PM](#)

At ease

**SB 165-ALCO. BEV. CONT. BOARD; MINORS; ALCOHOL**

[2:52:12 PM](#)

VICE CHAIR COGHILL announced the consideration of SB 165. He noted this is the first hearing and public testimony would be taken at the next meeting. [CSSB 165(L&C) was before the committee.]

[2:52:45 PM](#)

SENATOR PETER MICCICHE, sponsor of SB 165, explained that the bill would provide a good balance of representation to the Alcoholic Beverage Control (ABC) Board and decriminalizes youth for simple alcohol possession and consumption. It also puts in place proper accountability measures. The bill opens a new horizon of opportunity for youth who have made a mistake consuming alcohol in the past.

He pointed out that this legislation is part of an on-going, comprehensive, multi-year modernization process for Title 4. There is a lot left to work on. SB 165 contains two simple pieces that were agreed upon by the coalition. Title 4 is largely unchanged since 1980 and is outdated and ineffectual in carrying out the intent of the statute which directly impacts Alaska residents' public safety, public health, and the alcohol beverage industry.

He noted that the Senate Labor and Commerce Committee made several changes to the bill in response to feedback from community and industry members, as well as from justice system practitioners. He said he is particularly pleased by the addition of the Community Diversion Panel, which is a recognized treatment alternative for minor consuming alcohol offenses.

He concluded that the ABC Board composition changes proposed in the bill mirror the makeup of the Marijuana Board. He felt very strongly about the minor consuming law revisions.

CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, provided an overview of SB 165.

[2:55:54 PM](#)

SENATOR COSTELLO moved to adopt CSSB 165(L&C), labeled 29-LS1384\W, as the working document. There being no objection, version W was before the committee.

[2:56:44 PM](#)

CYNTHIA FRANKLIN, Executive Director, Alcohol Beverage and Control (ABC) Board and Marijuana Control Board, Department of Commerce, Community and Economic Development (DCCED), provided information on SB 165. She stated that the ABC Board's mission is to control the manufacture, barter, possession, and sale of alcoholic beverages in the state. She said that most of Title 4 has not been updated since 1980 and the industry has grown and changed since then. Much has been learned about youth access to alcohol and what is, and is not, effective in convincing youth to wait to use alcohol until they are of legal age.

She said the Title 4 review process, which began in May of 2012, attempted to bring together stakeholders from all aspects of the alcohol issue. The goals are to promote a fair business climate, protect public health and safety, create rational regulations around all tiers of the alcohol industry while limiting youth access to alcohol and ensuring youth are not criminalized, and to promote responsible alcohol use and reduce the harms of overconsumption. The process is still on-going and the bill is a part of this larger effort.

[2:59:26 PM](#)

MR. KOPP provided the genesis of the bill. Following a 3-year review and update by stakeholders, SB 99 was introduced in April of 2015. In December 2015 the steering committee recommended a new two-track process for the Title 4 rewrite. Elements of SB 99 that could be implemented now were inserted into SB 165. This will benefit young Alaskans and align the ABC Board and the Marijuana Control Board.

He described planned future work that would lead to a full package of recommendations next year. He concluded that SB 165 focuses on minors on licensed premises, minors in possession or consuming, and ABC Board member composition.

[3:01:33 PM](#)

MS. FRANKLIN reported that SB 165 creates additional designations of a public safety seat and a public health seat, replacing two public seats on the ABC Board. She related that this composition mirrors that of the Marijuana Control Board's

two industry seats. She opined that there is little difference between the two boards.

She turned to the work on minor consuming penalties, most of which are for first offenses and one-charge situations. The bill decriminalizes minor consuming and makes it a violation. Having heavy penalties creates life-long complications. The bill attempts to get clear, concise enforcement because current court hearing scheme looks very disparate, both racially and socio economically.

[3:05:12 PM](#)

MR. KOPP said, in addition, the bill would spare minors from appearing on CourtView, which can limit jobs and federal student loans. The bill also gets rid of places in the law where a minor's motor vehicle insurance and driver's license can be cancelled for non-driving offenses.

[3:05:59 PM](#)

MR. KOPP presented the sectional changes made in Senate Labor & Commerce. In Section 1, the section that related to the executive director's position was removed so as to not influence or politicize any board appointment. It now consists of only the board makeup.

In Section 8 a reference to community diversion panels was added to ensure that youth courts and tribal circles are among the options available to youth for alcohol education and treatment

Section 9 has a stylistic change from "under the age of 21" to "under 21 years of age." It also adds a reference to community diversion panels.

Section 10, deleted from the previous version, was renumbered because it inadvertently limited court discretion in youth enrolling in the Juvenile Alcohol Safety Action Program.

Section 11 amended court records of persons under 21 years of age, adding the terms "or a similar ordinance of a municipality" making clear that if state law is changed to keep minor consuming and alcohol possessions off of CourtView, municipal charges would also remain off of CourtView.

He concluded that a definitions of "community diversion panel" was also added, and the applicability section was amended to reflect changes. He noted a minor amendment is needed to complete the community diversion panel definition.

3:08:21 PM

VICE CHAIR COGHILL noted the importance of public testimony and assured everyone it would be made available at the next meeting. He said there is a proposed amendment to SB 165.

He held SB 165 in committee.

3:09:25 PM

There being no further business to come before the committee, Vice Chair Coghill adjourned the Senate Judiciary Standing Committee at 3:09 p.m.