

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

March 19, 2015

1:31 p.m.

**MEMBERS PRESENT**

Senator Mia Costello, Chair  
Senator Cathy Giessel, Vice Chair  
Senator Kevin Meyer  
Senator Gary Stevens  
Senator Johnny Ellis

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARINGS

Board of Public Accountancy  
JEFFRY L. JOHNSON

CONFIRMATION ADVANCED 4/7/15

Board of Marital & Family Therapy  
LEON T. WEBBER

CONFIRMATION ADVANCED 4/7/15

SENATE BILL NO. 58

"An Act relating to workers' compensation and transportation network companies; and providing for an effective date."

- HEARD AND HELD

SENATE BILL NO. 2

"An Act relating to a voluntary preference for veterans and for spouses and domestic partners of veterans by private employers."

- HEARD AND HELD

SENATE BILL NO. 71

"An Act relating to the practice of pharmacy; and relating to the administration of vaccines and related emergency medications."

- MOVED SB 71 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 58

SHORT TITLE: TRANSPORT NETWORK SVES. & WORKERS COMP

SPONSOR(S): STATE AFFAIRS BY REQUEST

02/20/15 (S) READ THE FIRST TIME - REFERRALS  
02/20/15 (S) L&C, STA  
03/19/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 2

SHORT TITLE: EMPLOYMENT PREFERENCE: VETERAN & SPOUSES

SPONSOR(S): WIELECHOWSKI

01/21/15 (S) PREFILE RELEASED 1/9/15  
01/21/15 (S) READ THE FIRST TIME - REFERRALS  
01/21/15 (S) L&C, STA  
03/19/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 71

SHORT TITLE: VACCINE CERTIFICATION FOR PHARMACISTS

SPONSOR(S): SENATOR(S) GIESSEL BY REQUEST

03/11/15 (S) READ THE FIRST TIME - REFERRALS  
03/11/15 (S) L&C  
03/17/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
03/17/15 (S) Heard & Held  
03/17/15 (S) MINUTE(L&C)  
03/19/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

JEFFRY L. JOHNSON, Appointee

Alaska State Board of Public Accountancy

**POSITION STATEMENT:** Testified as appointee to the Alaska State Board of Public Accountancy

LEON T. WEBBER, Appointee

Board of Marital & Family Therapy

**POSITION STATEMENT:** Testified as appointee to the Board of Marital & Family Therapy.

SENATOR BILL STOLTZE  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 58 on behalf of the Senate State Affairs Committee.

MICHAEL MONAGLE, Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development (DOLWD)  
Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 58.

MARTY HESTER, Director  
Division of Insurance  
Department of Commerce, Community and Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Testified that the Division of Insurance is tracking SB 58 to ensure that there is insurance provided during all phases of the operation of TNCs.

BRYCE EDWARDS, Operations Manager  
Uber in the Northwest

**POSITION STATEMENT:** Testified in support of SB 58.

SHELDON WINTERS. Lobbyist  
State Farm Insurance  
Juneau, Alaska

**POSITION STATEMENT:** Raised concerns about the definition of TNCs in SB 58.

ARMAND SELICIANO  
Property Casualty Insurers Association of America

**POSITION STATEMENT:** Expressed deep concerns with SB 58 because it does not address liability insurance.

SENATOR BILL WIELECHOWSKI  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 2.

KALYSSA MAILE, Staff  
Senator Bill Wielechowski  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided supporting information related to SB 2 on behalf of the sponsor.

MARK SANSOUCÉ, Regional Representative  
U.S. Department of Defense  
Tacoma, Washington

**POSITION STATEMENT:** Testified in support of SB 2.

#### **ACTION NARRATIVE**

[1:31:03 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Stevens, Giessel, Meyer, Ellis, and Chair Costello.

#### **Confirmation Hearings**

#### **Board of Public Accountancy**

[1:32:07 PM](#)

**CHAIR COSTELLO** announced the first order of business would be confirmation hearings. She asked Mr. Webber to offer some brief remarks regarding his interest in serving on the Alaska State Board of Public Accountancy.

**JEFFRY L. JOHNSON**, Appointee, Alaska State Board of Public Accountancy, said he is applying for a second and final term on the board. He has been a practicing CPA for 40 years. The board is tasked with licensing CPAs who issue reports on private, government, and nonprofit. He said he enjoys working for the profession trying to ensure quality.

**CHAIR COSTELLO** found no public testimony and thanked Mr. Johnson for being willing to serve.

#### **Board of Marital & Family Therapy**

**CHAIR COSTELLO** asked Mr. Webber to tell the committee about his interest in serving on the Board of Marital & Family Therapy.

[1:34:39 PM](#)

**LEON T. WEBBER**, Appointee, Board of Marital & Family Therapy, said he has been a practicing marriage and family therapist in Alaska since 1973. He is honored to serve as chair and be nominated for a second term. He discussed some of the challenging issues he addresses as chair including tele-therapy and tele-supervision. This opportunity is a privilege and a

responsibility to protect consumers and ensure that licensees carry out their responsibilities.

CHAIR COSTELLO stated that the committee will be forwarding the names for confirmation in one batch.

**SB 58-TRANSPORT NETWORK SVES. & WORKERS COMP**

[1:36:31 PM](#)

CHAIR COSTELLO announced the consideration of SB 58. "An Act relating to workers' compensation and transportation network companies; and providing for an effective date."

[1:37:10 PM](#)

SENATOR BILL STOLTZE, speaking as chair of the Senate State Affairs Committee, said he introduced SB 58 by request. He spoke to the following sponsor statement:

Senate Bill 58 establishes a workers' compensation exemption for individuals who operate a motor vehicle under a service agreement with a transportation network company.

Recently emerging in Alaska, transportation network companies provide services by connecting passengers to drivers through a digital network, commonly in the form of a mobile device application.

Currently, taxi companies are allowed an exemption from the Workers' Compensation Act, which creates an unfair advantage over transportation network companies. Senate Bill 58 is intended to provide equal treatment between taxis and transportation network companies.

The communities of Chugiak and Eagle River have desperately sought transportation options without success. Hopefully, this small piece of the solution will allow municipalities, including Anchorage, the ability to facilitate unmet transportation needs for all Alaskans.

SENATOR STOLTZE related that horse carriage drivers are disadvantaged by current law and he'd like that to be added to the bill.

[1:42:47 PM](#)

CHAIR COSTELLO noted the supporting letter in the packets from legislators in the greater Anchorage area.

SENATOR GIESSEL asked him to comment on the lack of transportation services in other areas of the municipality. She said Eagle River and Girdwood come to mine.

SENATOR STOLTZE confirmed that there is an issue in Girdwood. People are willing to pay for transportation services but the industry isn't responsive. This is an effort to remove some of the obstacles.

SENATOR MEYER agreed there is need for additional transportation services city wide. He asked if this is an insurance or workers' compensation bill.

SENATOR STOLTZE described it as an insurance bill that relates to a potential industry.

[1:46:26 PM](#)

SENATOR MEYER asked how this bill compares to the way other states have dealt with transportation issues.

SENATOR STOLTZE said he didn't know; he was relying on input from the municipality and trying to remove a barrier.

SENATOR MEYER said he appreciates that the legislation was introduced because he has heard it is a problem in many areas.

[1:48:47 PM](#)

MICHAEL MONAGLE, Director, Division of Workers' Compensation, Department of Labor and Workforce Development (DOLWD), testified in opposition to SB 58. He said the department doesn't have a problem with the concept if the transportation network company is defined similar to a taxicab business, but the application could be broader than that because of the wording. A tour company could use this model and be exempt from workers' compensation insurance, for example. If the bill was strictly limited to taxicabs and limousine type services the department wouldn't have as much concern.

He raised concern with the language in subparagraph (C) on page 2, line 25. It says a person is exempted once they take on a passenger and that concludes when the passenger exits. He questioned what happens with insurance in between the time the network driver drops off one passenger and picks up another. He also raised concern with Sections 3 and 4 on page 3 that apply

the legislation retroactively. If a driver currently had a workers' compensation claim or the division had a proceeding before the Workers' Compensation Board, those claims or proceedings or claims would be set aside by the retroactive clause. If the bill moves forward, the department would prefer that provision be deleted.

SENATOR STEVENS asked why taxicab companies are exempted from workers' compensation.

MR. MONAGLE said he didn't know the history of the exemption, but there are specific limitations to that exemption. There has to be a written contract between the business owner and its drivers and under the labor law there are restrictions on how the person can accept payment.

[1:53:25 PM](#)

SENATOR STEVENS questioned the rationale for exempting taxicabs in the first place.

MR. MONAGLE said the broader question is whether a person is an employee or an independent contractor. The legislature concluded that a taxicab driver is an independent contractor. This legislation provides a similar exemption under that same analysis.

CHAIR COSTELLO asked who, other than taxicab drivers, is exempt from workers' compensation.

MR. MONAGLE read the list found under AS 23.30.230. He added that there is a "relative nature of the work" test to determine whether there is an employee employer relationship in the event of an accident.

CHAIR COSTELLO asked if the department's concerns can be addressed through an amendment.

MR. MONAGLE answered yes and highlighted the concern about whether there is sufficient insurance in the event of an accident.

[1:59:33 PM](#)

CHAIR COSTELLO asked Mr. Hester if he wanted to comment on the legislation.

[1:59:52 PM](#)

MARTY HESTER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), said SB 58 does not affect Title 21, the insurance statute, but the division is monitoring the bill to ensure that there is insurance provided during all phases of the operation of these vehicles.

[2:01:04 PM](#)

BRYCE EDWARDS, Operations Manager, Uber in the Northwest, explained that Uber is a technology platform that connects riders and drivers. The system is cashless and brings in an unprecedented level of accountability. SB 58 solely focuses on workers' compensation and whether the people that partner on the system are small businesses or employees. He explained the process for becoming a driver on the Uber platform. Once someone becomes a driver they have the flexibility to log on and log off the application as they see fit. Drivers average 20 hours a month, are not dispatched, take 80 percent of the fare, and receive a 1099 at the end of the year.

MR. EDWARDS advised that Uber is working with the city of Anchorage to address transportation network companies.

[2:07:28 PM](#)

SENATOR MEYER asked how a passenger knows what the rate will be and whether the Uber driver is taking the correct route.

MR. EDWARDS explained that a rider can open the application and click on the rates. This shows costs per mile and per minute as well as the base charge. The rider can enter the final destination and receive an estimate for the trip. To determine the best route the rider can enter the final destination and push the navigate button to get step-by-step instructions. The rider can rate the driver at the end of the trip on a five star scale. A three star or below is an indication to Uber that follow up is needed.

SENATOR MEYER asked if there is an opportunity for a third party to track the rider.

MR. EDWARDS confirmed that is possible if the rider chooses to share the information.

SENATOR MEYER asked if Uber encourages drivers to put up a Plexiglas barrier behind the front seat as a safety measure.

MR. EDWARDS said Uber drivers feel very safe; they are not carrying cash and they have the option of turning down a passenger. He hasn't seen the Plexiglas shield.

SENATOR STEVENS asked him to address Mr. Monagle's concerns and if some common ground could be found.

MR. EDWARDS addressed the concern about opening the door for other types of operators. He said the bill has a standard definition of what a transportation network company (TNC) does. It clearly states that the partners in the system pick a passenger up and carry them from A to B. The issue of a package provider was mentioned but Uber doesn't own or lease any vehicles. He said that Uber prefers that Sections 3 and 4 relating to retroactivity remain in the bill because Uber has been giving many of free rides in Anchorage.

CHAIR COSTELLO asked how other states have addressed the issue of employee versus independent contractor.

MR. EDWARDS said it is being addressed in a number of states and Arkansas and Florida are the farthest along.

CHAIR COSTELLO asked if they're moving toward identifying drivers as independent contractors.

MR. EDWARDS replied it is shifting in that direction in Arkansas and Florida.

CHAIR COSTELLO asked if there has been litigation on the issue.

MR. EDWARDS said he isn't familiar with any outside the piece in Alaska.

[2:16:36 PM](#)

SENATOR ELLIS asked what insurance is affected other than workers' compensation. He noted there could be some interplay.

MR. EDWARDS offered to distribute a handout showing Uber's insurance information.

[2:17:16 PM](#)

At ease

[2:18:54 PM](#)

CHAIR COSTELLO reconvened the meeting.

MR. EDWARDS explained that the insurance for TNCs bridges the gap between what is typically a commercial and personal insurance industry. From the time the driver accepts a passenger through the application to the time that the rider leaves the vehicle, there is \$1 million primary insurance coverage. That extends to underinsured and uninsured motorist coverage as well as comprehensive coverage. When the application is on but before the ride has been accepted, there is contingent insurance that would cover in the case of any issues with the driver's personal insurance. This is referred to as period 1. No transaction is occurring and the driver's personal insurance is primary.

CHAIR COSTELLO opened public testimony.

2:21:28 PM

SHELDON WINTERS retained counsel, State Farm Insurance, stated that State Farm has no position on whether or not TNCs should be exempt from workers' compensation insurance, but has concerns about the narrow definition of TNCs in SB 58. As currently drafted it may have unintended but dire consequences for insurance coverage liability issues. He referenced the consumer warning on the Division of Insurance website which has joined 22 other states by issuing warnings about the risks of ride sharing/vehicle sharing programs. The key point is that personal auto insurance is not intended to cover people who use their vehicles for commercial purposes and coverage in the event of an accident in those cases is unlikely.

MR. WINTERS maintained that commercial activities by a TNC driver that are not covered by a personal policy do not just begin and end with picking up a passenger and dropping them off. Commercial activities include the moment the TNC driver turns on the application and is open for business, similar to the taxicab driver that turns on their "for hire" light.

Reiterating the concern about the narrow definition of TNCs, he directed attention to the language on page 3, line 6 and suggested that the language should be broadened to include all aspects of T&Cs. He discussed problems that occurred in other states after an accident and warned that if the bill passes in its current form it could be used to preclude an injured party's recovery from the TNC. He noted that State Farm submitted broader language to the sponsor of SB 58 and the sponsor of companion legislation.

SENATOR STEVENS assumed that commercial insurance is more expensive than private insurance. He asked him to discuss the insurance requirements for taxicabs.

MR. WINTERS confirmed that a commercial insurance policy is more expensive than a personal policy and advised that taxicab insurance requirements are set through municipal code.

SENATOR STEVENS asked if a taxicab has to carry commercial insurance 24 hours a day with no switching back to a personal policy.

MR. WINTERS said that is probably true, but State Farm does not insure taxicabs. He clarified that insurance companies do not accommodate switching back and forth and it's a problem that TNC drivers are under the mistaken impression that their personal policy will cover them.

[2:31:54 PM](#)

ARMAND SELICIANO, Property Casualty Insurers Association (PCIA) of America, stated that PCIA has deep concerns with SB 58 because it does not address liability insurance. Nothing in Alaska law addresses the liability aspect in the event of an accident involving a TNC. The bill provides two definitions of TNC services but neither covers the roaming period. Under the language in SB 58 Uber could argue that a driver who is roaming and gets in an accident is not covered by the commercial insurance. He cited a case in California with that fact pattern and Uber made that argument. He suggested amending the bill to include the roaming period and keeping an eye on the litigation in California where Uber drivers filed suit claiming they are employees, not independent contractors.

[2:36:39 PM](#)

CHAIR COSTELLO announced that she would hold SB 58 in committee with public testimony open.

[2:37:11 PM](#)

At ease

### **SB 71-VACCINE CERTIFICATION FOR PHARMACISTS**

[2:39:45 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 71. "An Act relating to the practice of pharmacy; and relating to the administration of vaccines and

related emergency medications." She found no testifiers and closed public testimony.

[2:40:20 PM](#)

SENATOR GIESSEL motioned to report SB 71, labeled 29-LS0591\W, from committee with individual recommendations and attached zero fiscal note.

CHAIR COSTELLO announced that without objection SB 71 is reported from the Senate Labor and Commerce Standing Committee.

[2:40:41 PM](#)

At ease

**SB 2-EMPLOYMENT PREFERENCE: VETERAN & SPOUSES**

[2:42:14 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 2. "An Act relating to a voluntary preference for veterans and for spouses and domestic partners of veterans by private employers."

[2:42:47 PM](#)

SENATOR BILL WIELECHOWSKI, Sponsor of SB 2, introduced SB 2 speaking to the following sponsor statement:

Our country is emerging from a decade of war and reducing the total number of combat forces. In an already challenging economic climate, these men and women who have honorably served must now make their case that the skills acquired in the military translate into civilian employment.

Senate Bill 2 permits private sector employers to extend a hiring preference to veterans, and their spouse or domestic partner, without violating Alaska Human Rights Law. It is a Department of Defense priority and a policy the State of Alaska already permits in public sector hiring.

This bill expands opportunities for veterans and aims to help bring down the unacceptably high unemployment rate among them. It also gives private employers greater flexibility in choosing to hire veterans.

As the number of veterans in the American workforce has increased dramatically, supporting these brave men

and women is of the utmost importance. I hope that you will join me in helping to make the transition back into civilian life a smooth one for our military families.

SENATOR WIELECHOWSKI said he is unaware of any lawsuits that have occurred over this hiring preference. Alaska has a long history of being friendly to veterans and SB 2 is another step to show appreciation for the service of veterans.

He highlighted that, based on recent legal advice, he is suggesting several changes to the legislation and submitted a proposed committee substitute that encompasses those changes.

CHAIR COSTELLO asked how many veteran are in Alaska and how many are unemployed.

[2:45:32 PM](#)

KALYSSA MAILE, Staff, Senator Bill Wielechowski, reported that in Alaska about one person in 10 is a veteran, which is among the highest rate in the nation. The latest national rates show that 18 to 24 year old veterans have an 18.7 percent unemployment rate as compared to 11.6 percent for non-veterans in the same age cohort. Twenty-five to 34 year old veterans have a 7.4 percent unemployment rate versus a 5.7 percent rate for non-veterans. Across the whole population, the unemployment rate for veterans is 5.7 percent versus 5.3 percent for non-veterans.

SENATOR STEVENS asked why the bill includes spouses and domestic partners.

SENATOR WIELECHOWSKI replied the proposed CS removes both spouses and domestic partners.

CHAIR COSTELLO asked what groups have stated or submitted written support for the legislation.

MS. MAILE said the U.S. Department of Defense has said this is a priority and other folks have stated informal support. She offered to reach out more and provide the letters of support as they come in.

[2:48:13 PM](#)

MARK SANSOUCÉ, Regional Representative, U.S. Department of Defense (DOD), Tacoma, Washington, testified in support of SB 2. He said he didn't want to be redundant, but wanted to clarify that this is a voluntary effort. Private sector companies want

to hire veterans because of their unique skill sets and reliability, but are hesitant out of fear of being sued under Title 7 of the Civil Rights Act of 1964. This is an attempt to alleviate that fear. He said that since the public sector in all 50 states has accepted practices for veteran preference in hiring, the language in SB 2 will allow the private sector to have those policies. He noted that while this is a new issue for DOD, it is not a new issue for the National Conference of State Legislatures (NCSL). At the instigation of NCSL, 13 states have passed similar legislation. He referenced the statistics Ms. Maile reported and highlighted that last year over 2,000 people separated from the active reserve and National Guard components and returned to call Alaska home.

CHAIR COSTELLO opened public testimony for SB 2.

[2:51:43 PM](#)

SENATOR MEYER asked what version is before the committee.

[2:51:53 PM](#)

At ease

[2:52:47 PM](#)

CHAIR COSTELLO reconvened the meeting and stated that the committee would work with the sponsor on the CS. Finding no testifiers she closed public testimony.

SENATOR STEVENS asked if the Coast Guard is included.

MS. MAILE said that has been discussed and could be included in the CS.

CHAIR COSTELLO stated that she would hold SB 2 in committee for further consideration and forthcoming CS.

[2:54:21 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 2:54 p.m.