

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

April 11, 2015

12:33 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**

HOUSE BILL NO. 149 AM

"An Act relating to an amendment of the articles of incorporation of certain Native corporations to establish a lower quorum requirement for shareholder meetings."

- MOVED HB 149 AM OUT OF COMMITTEE

SENATE BILL NO. 58

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

- MOVED CSSB 58(L&C) OUT OF COMMITTEE

SENATE BILL NO. 107

"An Act relating to insurance; relating to risk based capital for domestic insurers and within an insurance holding company system or transactions involving a domestic fraternal benefit societies, including provisions related to insurers subject to risk based insurer; relating to management and examination of domestic insurers that are part of capital and action level event requirements; relating to review by the director of an insurance holding company system; adding provisions relating to participation by the insurance of an insurer's risk based capital plan; relating to confidentiality and sharing director of insurance in a supervisory college; relating to civil and criminal penalties for of certain information submitted to the director of insurance; relating to evaluating an violations by insurers and individuals; relating to provisions for risk

management and insurance holding company and the acquisition of control of or merger with a domestic own risk and solvency assessments by insurers; relating to operating requirements for insurer; relating to risk based capital, risk management, and own risk and solvency controlling insurance producers; relating to producer-controlled insurers; adding and assessments of insurers; clarifying provisions related to risk based capital plans; relating amending definitions related to insurers; and providing for an effective date." to exemptions by the director of insurance for certain domestic and casualty insurers from risk based capital requirements; relating to insurance holding companies, including filing requirements, divestiture, content of statements, notifications, and hearings; relating to registration requirements of insurers; relating to transactions

- HEARD & HELD

SENATE BILL NO. 99

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; 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 providing for an effective date."

- HEARD & HELD

#### **PREVIOUS COMMITTEE ACTION**

BILL: HB 149

SHORT TITLE: NATIVE CORP. ART. AMENDMENTS

SPONSOR(S): REPRESENTATIVE(S) PRUITT

03/18/15	(H)	READ THE FIRST TIME - REFERRALS
03/18/15	(H)	CRA
03/26/15	(H)	CRA AT 8:00 AM BARNES 124
03/26/15	(H)	Heard & Held
03/26/15	(H)	MINUTE(CRA)
03/28/15	(H)	CRA AT 10:00 AM BARNES 124
03/28/15	(H)	Moved HB 149 Out of Committee
03/28/15	(H)	MINUTE(CRA)
03/30/15	(H)	CRA RPT 4DP 1NR

03/30/15 (H) DP: DRUMMOND, NAGEAK, SEATON, TILTON  
03/30/15 (H) NR: HUGHES  
04/02/15 (H) TRANSMITTED TO (S)  
04/02/15 (H) VERSION: HB 149 AM  
04/03/15 (S) READ THE FIRST TIME - REFERRALS  
04/03/15 (S) L&C  
04/09/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
04/09/15 (S) Heard & Held  
04/09/15 (S) MINUTE(L&C)  
04/11/15 (S) L&C AT 11:00 AM BELTZ 105 (TSBldg)

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)  
03/19/15 (S) Heard & Held  
03/19/15 (S) MINUTE(L&C)  
04/02/15 (S) STA AT 9:00 AM BUTROVICH 205  
04/02/15 (S) -- Public Testimony --  
04/11/15 (S) L&C AT 11:00 AM BELTZ 105 (TSBldg)

BILL: SB 107

SHORT TITLE: INSURANCE; RISK MG'T; HOLDING COMPANIES

SPONSOR(s): LABOR & COMMERCE

04/11/15 (S) READ THE FIRST TIME - REFERRALS  
04/11/15 (S) L&C  
04/11/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 99

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR(s): MICCICHE

04/07/15 (S) READ THE FIRST TIME - REFERRALS  
04/07/15 (S) L&C, JUD  
04/09/15 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
04/09/15 (S) Heard & Held  
04/09/15 (S) MINUTE(L&C)  
04/11/15 (S) L&C AT 11:00 AM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

BRANDON BREFCZYNSKI, Staff  
Senator Bill Stoltze

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Delivered a sectional analysis for the CS for SB 58.

ARMAND FELICIANO  
Property Casualty Insurers Association of America

**POSITION STATEMENT:** Testified in support of the CS for SB 58.

CARLA JACOBS, Policy Team  
Uber Technologies  
Chicago, Illinois

**POSITION STATEMENT:** Testified in support of the CS for SB 58.

WESTON EILER, Aide  
Senate Labor and Commerce Committee  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 107 on behalf of the Senate Labor and Commerce Committee.

LORI WING-HEIER, Director  
Division of Insurance  
Department of Commerce, Community and Economic Development  
Juneau, Alaska

**POSITION STATEMENT:** Delivered a PowerPoint presentation to frame the issue addressed in SB 107.

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

**POSITION STATEMENT:** Delivered a sectional analysis for SB 99.

CARMEN GUTIERREZ, Contractor  
Alaska Mental Health Trust Authority  
Anchorage, Alaska

**POSITION STATEMENT:** Delivered a sectional analysis for SB 99.

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

**POSITION STATEMENT:** Answered questions and provided information related to SB 99.

**ACTION NARRATIVE**

[12:33:43 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 12:33 p.m. Present at the call to order were Senators Stevens, Giessel, and Chair Costello. Senators Meyer and Ellis arrived during the course of the meeting.

**HB 149-NATIVE CORP. ART. AMENDMENTS**

[12:34:41 PM](#)

**CHAIR COSTELLO** announced the consideration of HB 149 am. "An Act relating to an amendment of the articles of incorporation of certain Native corporations to establish a lower quorum requirement for shareholder meetings." She noted this was the second hearing and public testimony was closed.

She asked if there were questions for the sponsor's staff, Mr. Craft.

**SENATOR STEVENS** asked if the bill changes anything other than the quorum requirements.

**MR. CRAFT** answered no; the bill is narrowly focused on that issue.

[12:35:48 PM](#)

**SENATOR GIESSEL** moved to report HB 149 am, labeled 29-LS0534\A.A, from committee with individual recommendations and attached fiscal note.

**CHAIR COSTELLO** announced that without objection HB 149 am is reported from the Senate Labor and Commerce Standing Committee.

[12:36:48 PM](#)

At ease

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

[12:37:49 PM](#)

**CHAIR COSTELLO** reconvened the meeting and announced the consideration of SB 58. "An Act relating to workers' compensation and transportation network companies; and providing for an effective date." She noted that this was the second hearing and public testimony was open. She asked for a motion to adopt the proposed committee substitute.

[12:38:01 PM](#)

SENATOR GIESSEL motioned to adopt the CS for SB 58, labeled 29-LS0616\N, as the working document.

CHAIR COSTELLO objected for discussion purposes.

BRANDON BREFCZYNSKI, Staff, Senator Bill Stoltze, delivered the following sectional analysis for the CS for SB 58:

**Section 1:** Amends AS 21.96 by adding a new section

**21.96.018 Transportation network company insurance provisions**

Insurers may exclude coverage offered under a policy of an owner or operator of a personal vehicle while logged onto a transportation network company digital network or engaged in a prearranged ride. Exclusions of this section apply regardless of the requirements under AS 28.20. This section does not require or preclude a personal automobile insurance policy to provide coverage while the driver is logged onto the network or engaged in a prearranged ride. Holds insurers not liable for excluding coverage of under a personal insurance policy while logged onto a digital network or engaging in a prearranged ride. Requires cooperation of transportation network companies and insurers during a claims investigation.

**Section 2:** Amends AS 21.96 by adding new section to provide the following definitions:

- Digital network
- Personal vehicle
- Prearranged ride
- Transportation network company
- Transportation network company driver
- Transportation network company rider

**Section 3:** Amends AS 23.30.230(a) by adding new language to exempt transportation network company drivers and horse carriage operator from the Workers' Compensation Act.

**Section 4:** Amends AS 23.30.230(c) by adding new definitions.

**Section 5:** Amends AS 28 by adding a new chapter

**Chapter 23 Transportation Network Companies and Drivers**

**AS 28.23.010. Financial Responsibility of transportation network companies.**

Requires either the transportation network company driver or transportation network company on behalf of the driver to maintain primary automobile insurance while logged onto the digital network or while engaging in a prearranged ride. Institutes insurance requirements for when drivers are logged into a digital network and engaging in a prearranged ride. Requires the transportation network company to provide insurance if the driver's insurance has lapsed. Required insurance may be placed with an insurer licensed under AS 21.09.010 or AS 21.34. Insurance requirements of this section satisfy the requirements of AS 28.20. Requires proof of insurance.

**AS 28.23.015. Transportation network company automobile insurance disclosures.**

Requires a transportation network company to disclose in writing to transportation network company drivers the insurance coverage provided while the driver uses a personal vehicle in connection to a digital network or while engaged in a prearranged ride, and that the driver's personal insurance may not provide coverage when logged onto a digital network or engaging in a prearranged ride.

**AS 28.23.200 Definitions**

Provides new definitions for AS 28.23.

**Section 6:** Applicability clause.

**Section 7:** Retroactivity clause.

**Section 8:** Section 5 effective date.

**Section 9:** Immediate effective date for all sections excluding section 8.

[12:40:21 PM](#)

SENATOR MEYER joined the committee.

12:42:28 PM

CHAIR COSTELLO removed her objection and version N was before the committee.

SENATOR STEVENS asked how it works to transition from personal to company insurance.

MR. BREFCZYNSKI explained that a driver is operating under his/her personal insurance until he/she logs onto the app and is seeking passengers. After that he/she is covered under a \$50,000 death and bodily injury policy, \$100,000 for death and bodily injury for each incident, and \$25,000 property damage provided through the transportation network company. Once the driver has accepted a rider, he/she is covered by a \$1 million insurance policy provided through the transportation network company (TNC). These provisions are in Section 5. The insurance reverts to the smaller policy once the rider is dropped off. If the driver is no longer looking for a rider and turns the app off, the insurance reverts to the driver's personal insurance.

SENATOR STEVENS asked if a driver is covered under his/her personal insurance once they've logged onto the app.

MR. BREFCZYNSKI directed attention to Section 1 that says that insurers have the option of excluding coverage when a driver is logged onto the app or covered by a transportation network company policy.

12:44:59 PM

CHAIR COSTELLO asked what would keep a person from dropping their personal insurance and instead logging onto the app any time they're driving.

MR. BREFCZYNSKI explained that state law requires drivers to carry insurance for their private vehicle and transportation network companies like Uber have requirements for someone to become a driver. Insurance is one of the requirements.

CHAIR COSTELLO asked if there are protections to keep a driver from abusing the use of the TNC insurance by logging on when he/she didn't intend to pick up a rider.

MR. BREFCZYNSKI deferred the question to Uber.

CHAIR COSTELLO asked him to provide some background on the horse carriage provision.

[12:47:24 PM](#)

MR. BREFCZYNSKI explained that Senator Stoltze has constituents in his district that operate horse carriage services and he decided they should be exempted.

CHAIR COSTELLO opened public testimony.

[12:48:52 PM](#)

ARMAND FELICIANO, Property Casualty Insurers Association of America, testified in support of the CS for SB 58. He said the language in the bill is part of a national agreement. Sections 1 and 5 address insurance gaps that were of concern and now will be good for drivers, passengers, and the public because it clarifies the law regarding insurance. The bill is flexible and accommodates innovation and provides adequate disclosure to drivers. As written, the bill protects liability insurance and is a good public policy that provides insurance whenever an Uber driver operates in Alaska.

Referencing previous questions, he explained that the insurance falls into two periods. This bill would make it clear that if someone is logged on without a passenger coverage could come either from personal insurance or it could be provided by the TNC's or a cross between a commercial and personal policy. Once a passenger gets in the car, the TNC policy is in force.

CHAIR COSTELLO asked if there is a way that the driver indicates on the app that he/she has a passenger.

MR. FELICIANO confirmed that the driver indicates in the app that he/she has accepted a passenger and is on the way to pick them up. There's an electronic record.

[12:52:10 PM](#)

CARLA JACOBS, Policy Team, Uber Technologies, Chicago, Illinois, testified in support of the CS for SB 58. She agreed with Mr. Feliciano that the language in the bill is part of a national agreement that multiple states have adopted for transportation network company insurance. The bill now provides regulatory authority for TNC insurance and defines TNC affiliated drivers as independent contractors.

MS. JACOBS explained that Uber is a technology platform that connects riders with the nearest driver through a cashless transaction. The way the process works is that drivers can apply for an online platform. They submit information including their driver's license, vehicle registration, insurance, and

inspection form. The applicant undergoes a thorough background check conducted by an accredited third party. Each driver then gets a 19-point vehicle inspection by a local certified mechanic. The driver then partners with the Uber platform and has the ability to log onto the platform anytime. She noted that, on average, partners use the platform 20 hours a month. Drivers receive requests directly from riders, not through a dispatch service, and can choose whether to accept or not. Partners take home 80 percent of each fare, 20 percent goes to Uber for the use of the platform and drivers receive a 1099 form at the end of each year. In cities where multiple TNCs operate, the partner drivers have the freedom to partner with multiple platforms.

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SENATOR STEVENS asked what impact Uber has had on independent taxicab companies.

MS. JACOBS replied it varies from city to city, but often there has been a positive impact because taxi drivers are able to supplement their income by driving a cab and also partnering with Uber. In cities such as Milwaukie where there was a limit on the number of taxicab permits available, Uber worked with the city to change the permitting structure to accommodate TNCs as well as additional taxicab permits.

SENATOR MEYER asked what, other than use of the app and insurance, Uber provides its drivers for taking 20 percent of the fare.

MS. JACOBS reiterated the previous testimony that insurance can be provided by the individual driver, the TNC or a combination of the two.

SENATOR MEYER asked if he as a TNC driver would be covered by the TNC insurance if he turned the app on and drove to the grocery store for personal business.

MS. JACOBS replied it would depend on the driver's situation. If the driver had an insurance policy that allowed coverage during period 1 when the application is on and a ride has not been accepted, then coverage would be through that driver's policy. If the driver's personal insurance didn't provide coverage during period 1, then coverage would be through Uber's policy.

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CHAIR COSTELLO closed public testimony and solicited a motion.

1:01:57 PM

SENATOR GIESSEL motioned to report the CS for SB 58, labeled 29-LS0616\N, from committee with individual recommendations and attached fiscal note(s).

CHAIR COSTELLO announced that without objection, CSSB 58(L&C) is reported from the Senate Labor and Commerce Standing Committee.

1:02:14 PM

At ease.

**SB 107-INSURANCE; RISK MG'T; HOLDING COMPANIES**

1:07:04 PM

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 107. "An Act relating to insurance; relating to risk based capital for domestic insurers and fraternal benefit societies, including provisions related to insurers subject to risk based capital and action level event requirements; relating to review by the director of insurance of an insurer's risk based capital plan; relating to confidentiality and sharing of certain information submitted to the director of insurance; relating to evaluating an insurance holding company and the acquisition of control of or merger with a domestic insurer; relating to risk based capital, risk management, and own risk and solvency assessments of insurers; clarifying provisions related to risk based capital plans; relating to exemptions by the director of insurance for certain domestic and casualty insurers from risk based capital requirements; relating to insurance holding companies, including filing requirements, divestiture, content of statements, notifications, and hearings; relating to registration requirements of insurers; relating to transactions within an insurance holding company system or transactions involving a domestic insurer; relating to management and examination of domestic insurers that are part of an insurance holding company system; adding provisions relating to participation by the director of insurance in a supervisory college; relating to civil and criminal penalties for violations by insurers and individuals; relating to provisions for risk management and own risk and solvency assessments by insurers; relating to operating requirements for controlling insurance producers; relating to producer-controlled insurers; adding and amending definitions related to insurers; and providing for an effective date." She noted that this was the first hearing.

[1:07:40 PM](#)

WESTON EILER, Aide to the Senate Labor and Commerce Committee, introduced SB 107 on behalf of the Labor and Commerce Committee speaking briefly to the following sponsor statement:

The primary focus of the finance section of the Division of Insurance is the financial regulation of domestic and foreign insurers for the benefit and protection of Alaska policyholders. Requirements for financial supervision of insurers licensed in Alaska are imposed by Alaska statutes and regulations. Much of the statutory framework governing this effort comes from model laws passed by the National Association of Insurance Commissioners (NAIC). The financial section is unique in the Division as it is the only section that is accredited by the NAIC. The accreditation program provides a process whereby solvency regulation of multi-state insurance companies can be enhanced and adequately monitored with an emphasis on:

- Adequate solvency laws and regulations in each accredited state to protect consumers and guarantee funds;
- Effective and efficient financial analysis and examination processes;
- Appropriate organizational and personnel practices; and
- Effective and efficient process regarding the review of organization, licensing and change or control of domestic insurance.

Being accredited provides a means whereby other states will accept the examinations of Alaska's multi-state insurers; and that we can accept the examinations of non-domestic insurers licensed to sell in Alaska from other accredited states without having to perform our own examinations. Alaska has seven domestic insurers and approximately 1,100 foreign insurers.

Finally, the importance of accreditation cannot be understated as respects our commitment to state-based regulation. Title V of the *Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010* (Dodd-Frank), provided for the creation of the Federal Insurance Office (FIO). The FIO's is charged with monitoring the insurance industry (with the exception of the health insurance industry) including identifying activities within a sector that could

potentially contribute to a systemic crisis to the broader financial system, the extent to which underserved communities have access to affordable insurance products and the sector's regulation. The FIO is authorized to receive and collect data and information on the insurance industry and can enter into information sharing agreements with state regulators. They also have the authority to require an insurer to submit data to its office.

In 2013, the FIO released a mandated study titled "*How to Modernize and Improve the System of Insurance Regulation in the United States*". The report acknowledges many of the strengths as well as the successes of state-based insurance regulation. Nonetheless, the framework has been set for federal regulation if state-based regulation were to fail. It is not thought that federal oversight of Alaska, or any other states, will be in the best interest of the states. However, the states are continually monitored for adoption of and compliance of statutes regarding financial solvency and other regulations promoting a sound insurance industry that protects consumers. An accredited state meets the criteria set by the NAIC and accepted by the FIO.

MR. EILER deferred further introduction and explanation to Lori Wing-Heier.

[1:09:16 PM](#)

At ease

[1:11:06 PM](#)

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), stated she would go through a PowerPoint presentation to frame the issue addressed in SB 107. She said the issue of the bill relates to the mission of the Division of Insurance, which is to regulate the insurance industry to protect Alaskan consumers. The intent of the bill is to ensure that the insurance companies doing business in Alaska are solvent and whole and Alaskan consumers are protected.

[1:12:33 PM](#)

MS. WING-HEIER spoke to the following points regarding state-based regulation:

Unlike any other major industry, the individual state governments are the primary regulators of the business of insurance and are responsible for the safety and soundness of the U.S. insurance system.

- In 1945, Congress passed the McCarran-Ferguson Act (15 U.S.C. 1011 - 1015) which exempted: the business of insurance from most federal regulation. The Act provided that "[n]o Act of Congress shall be construed to invalidate, impair, or supersede any law by any State for the purpose of regulating the business of insurance, or which imposes a fee or tax upon such business, unless such Act specifically relates to the business of insurance."
- In the Act, Congress made clear its intent stating that "the continued regulation and taxation by the several States of the business of insurance is in the public interest, and silence on the part of Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several States."
- Through the years, Congress has enacted legislation specifically related to insurance including flood insurance, crop insurance, terrorism protection insurance, producer licensing uniformity and reciprocity, uniform standards for surplus lines eligibility and the creation of the Federal Insurance Office (FIO) which is, for the most part, a non-regulatory agency.
- One of the reasons why the state-based system of insurance regulation continues is that it has worked.
- For example, during the 2007 - 2009 financial crisis which hit hard the financial services industry of which insurance is a part, the United States Government Accountability Office, in a 2013 report to Congress, noted "[t]he effects of the financial crisis on insurers and policyholders were generally limited, with a few exceptions."
  - The Independent Insurance Agents & Brokers of America (IIABA) agreed stating in a 2011 letter to the FIO: "Even during the most tumultuous of times, state insurance

regulators ensure that insurers are solvent, that claims are paid, and that consumers are protected. IIABA remains dedicated to preserving state insurance regulation."

MS. WING-HEIER said the McCarran-Ferguson Act put the transaction of insurance under the states, taking it away from federal regulation. State-based regulation holds today because it works. An important fundamental of state-based regulation is accreditation, which is looking for reciprocity in the solvency standards amongst insurance companies that are domiciled in Alaska and doing business outside Alaska or insurance companies domiciled outside and doing business in Alaska. They are all judged by the same standard. What this model legislation seeks to ensure is that there is reciprocity among the statutes in the other 55 jurisdictions - the states, territories, and the District of Columbia.

[1:15:49 PM](#)

SENATOR ELLIS joined the committee.

SENATOR STEVENS asked if the division ensures that claims are paid.

MS. WING-HEIER answered yes; insurance companies report in their financials what they expect to pay and what they have paid.

She discussed the following points related to the National Association of Insurance Commissioners:

- The National Association of Insurance Commissioners (NAIC) is the U.S. standard-setting and regulatory support organization created and governed by the chief insurance regulators from the 50 states, the District of Columbia and five U.S. territories.
- Through the NAIC, state insurance regulators establish standards and best practices, conduct peer review, and coordinate their regulatory oversight. NAIC members, together with the central resources of the NAIC, form the national system of state-based insurance regulation in the U.S.
- While much of the business of insurance is local in nature due to differences of risk and other factors particular to a local area, the elected or appointed state government officials who

oversee the regulation of insurance companies and producers in their respective jurisdiction (the members of the NAIC), recognize there often is a need for national standards and/or uniformity.

- The NAIC promotes national standards, uniformity, reciprocity, and consistency at the national level through the development of model laws and regulations.

MS. WING-HEIER said the only time a state is required to adopt a model is for an accreditation.

[1:17:43 PM](#)

CHAIR COSTELLO asked when the state last went through the accreditation process.

MS. WING-HEIER replied it was in 2012 and the next accreditation will be in 2017. A report is due in June, 2015 as to accreditation status on the adoption of model laws.

She discussed the following points on the NAIC Model Law Program:

- Much of the work of the NAIC is conducted through its committees, task forces, working groups, or subgroups and it is here where discussion most likely begins in the consideration of a new model law. However, these entities may not devote resources to the actual development or drafting of a model law unless it is determined that the subject of the model law necessitates a minimum national standard and/or requires uniformity amongst all states.
- It also must be determined that the NAIC members are committed to devoting significant regulator and association resources to educate, communicate and support a model that has been adopted by the membership.
- Only model laws mandated by federal law are exempt from these determinations.
- The model law development and drafting procedure entails a rigorous process providing notice and opportunity for consumer groups and industry to comment.
- Both the parent committee with oversight for the subject area of a model law and the entire

membership of the NAIC must adopt any proposed model law by a two-thirds majority vote.

- The process of creating a national standard, however, does not stop there. The decision to implement each standard remains with the individual states.
- Adoption of certain model laws are required if a state insurance regulatory agency is to be accredited under the NAIC financial regulation standards & accreditation program.

MS. WING-HEIER relayed that Alaska sits on the Property and Casualty Committee and the Market Regulation and Consumer Affairs Committee. It also sits on 14 task forces, 3 liaison committees and numerous working groups. She also vice-chairs the American Indian and Alaska Native Liaison Committee. It's in these committees that discussions come forward about what is best for regulation. Once the laws come forward they have been well vetted by all jurisdictions. They are brought out for both industry and public comment.

1:19:03 PM

CHAIR COSTELLO asked how much time the division dedicates to the efforts related to the NAIC.

MS. WING-HEIER replied the division tries to attend three meetings a year. Additionally there are a lot of conference committee calls and on occasion she'll send staff to the Kansas City office if a new subject is coming out.

CHAIR COSTELLO asked how many other states have gone through the process that Alaska is currently undertaking.

MS. WING-HEIER answered that all states have gone through the process.

1:20:18 PM

MS. WING-HEIER explained that the mission of the NAIC financial regulation standards and accreditation program is to establish and maintain state regulator standards to promote sound insurance company financial solvency regulation. This is a critical function for consumer protection because an insurance company that isn't financially solvent, cannot meet its contractual policy obligations to pay claims in the event of a loss.

She said the regulation and accreditations standards are important because Alaska has about 1,100 insurance companies that do business in the state. She continued to review the following points:

- The accreditation program provides a process whereby solvency regulations of multi-state insurance companies can be enhanced and adequately monitored.
- This is important, particularly for a small state such as Alaska, because if another state meets the accreditation standards of the NAIC, then Alaska can have the confidence that insurance companies operating here but domiciled in another state are being adequately regulated for financial solvency by the domiciliary state.
- Similarly, if Alaska is not accredited, other states can no longer rely on examinations performed by the division on insurers domiciled here. Those insurers would become subject to examinations by all states in which they do business which would be a significant financial burden.
- Alaskan consumers could be negatively impacted as companies may decide not to operate in Alaska due to the duplicative examination costs incurred by operating in a non-accredited state.

[1:21:22 PM](#)

MS. WING-HEIER explained that accreditation process is for a five-year period and the division's next full accreditation review will be in 2017. A key component of the financial solvency regulation accreditation review is a determination by the NAIC accreditation review team that the state has the necessary solvency laws and regulations to protect consumers and guarantee funds.

She stated that the first part of the bill is about risk-based capital (RBC), which is a method of measuring the minimum amount of capital that is appropriate to support an insurer's overall business operations. This surplus capital provides a cushion to an insurer against insolvency. It is also referred to as the insurance company's elastic measure. RBC limits the amount of risk a company can take so a company with a higher amount of risk has to hold a higher amount of capital.

Risk-based capital has two main components: 1) it is a formula with an established hypothetical minimum capital level that is compared to an insurance company's actual capital level; and 2) the model law grants automatic authority to the state insurance regulator to take specific actions based on the level of impairment. The model addresses insurer reporting requirements, the hearing process, and confidentiality concerns. It includes provisions for exemptions, foreign insurers and immunity. The division is updating the risk-based capital and the new standards are effective January 1, 2016. These changes appear in the first eight pages of the bill and amend chapter 14 in AS 21.

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MS. WING-HEIER said the second part of the bill updates the insurance holding company chapter in AS 21 to reflect the status or organizational structure of holding companies, and looking at what a holding company may have besides an insurance company. If there is more than one insurance company within that holding company, it would be possible to see the finances of each company to see that each can stand on its own and is not subsidized by another company. She displayed and briefly reviewed the following points:

- Prior to the 2010 model revisions, the model law focused on protecting the solvency of insurers within an insurance holding company system, by monitoring transactions between insurers and their affiliates, dividends declared by insurers and acquisitions of insurers.
- The model pertains to subsidiaries of insurers, acquisition of control or merger with domestic insurers, acquisitions involving insurers not otherwise covered, registration of insurers, and standards and management of an insurer within a holding company system.
- The model revisions are aimed at assessing the "enterprise risk" within the entire insurance holding company system (including the risk caused by non-insurer affiliates) and determining the impact of such risk upon the solvency of insurers within the insurance group.
- To accomplish this goal, the revisions enhance a chief insurance regulator's ability to supervise the insurance group by mandating reporting of information regarding the solvency and risk of an insurer's non-insurer affiliates and allowing examination of such entities.
- This portion of the bill incorporates changes made to Model Law 440, *Model Insurance Holding Company System Regulatory Act*.

CHAIR COSTELLO asked if the information about companies within a holding company is sent to the division in hard copy or available online.

MS. WING-HEIER replied there are some aspects that have to be reported to the division. With the amendments, insurers will now have to report to the division through a risk management framework called an own risk solvency. The division also does physical financial examinations of its insurers each year.

[1:24:44 PM](#)

MS. WING-HEIER discussed risk management and owner risk solvency assessment outlined in the new chapter AS 21.23. She explained that it puts the onus on the insurance companies to report to the division on confidential matters involving their enterprise risk management. She reviewed the following points:

- This new model requires insurers to maintain a risk management framework and complete an ORSA Summary Report to be filed with the chief insurance regulator of the domiciliary state, unless exempt.
- The confidential filing summarizes the insurer's or group's risk management framework, assessment of risk exposures, group risk capital and prospective solvency assessment.
- These reports represent a proactive approach by providing chief insurance regulators with an additional tool to evaluate the prospective solvency of an insurer.
- This portion of the bill adopts Model Law 505, *Risk Management And Own Risk And Solvency Assessment Model Act*.

CHAIR COSTELLO asked if she and the division staff sign confidentiality agreements.

MS. WING-HEIER answered that confidentiality is built into the insurance statutes in AS 21.06.060. The bill references the current standards.

CHAIR COSTELLO asked how that applies to individual state employees.

MS. WING-HEIER replied it would apply to all employees within the division and all division contractors.

She reviewed the updates in chapter 27 relating to the operating requirements for controlling insurance producers. She explained

that it sets out the parameters for the owner of an insurance company who is also selling the insurance of the insurance company. The amendments dictate when to draw the line between the owner and agent of an insurance company. She displayed the following points:

- There are situations in which a producer soliciting, negotiating or procuring the making of an insurance contract on behalf of an insured also controls directly or indirectly the insurance company.
- In such situations, additional guidelines for business between controlled insurers and controlling producers are necessary for fiduciary and oversight reasons.
- This model requires specific contract provisions to be contained in controlling producer/controlled insurer contracts.
- This portion of the bill incorporates amendments to Model Law 325, *Business Transacted With Producer Controlled Property/Casualty Insurer Act*.

SENATOR STEVENS asked if she can deny insurance companies from doing business in Alaska.

MS. WING-HEIER answered yes.

SENATOR STEVENS referenced her duty to protect the consumer and asked if she looks at more than just solvency in determining whether or not an insurance company can do business in Alaska.

MS. WING-HEIER explained that for a company to receive a certificate of authority to conduct business within the state, it has to meet certain financial solvency requirements. After it is allowed to do business, it is monitored by best practices to ensure that consumers are treated fairly.

CHAIR COSTELLO asked for the rationale for including the NAIC model Risk Management and Own Risk and Solvency Assessment Act in a new chapter. She asked if it was uncommon to add a new chapter and questioned whether it was needed.

MS. WING-HEIER explained that the NAIC model law provides an opportunity for the division as financial examiners to be proactive looking forward 3-5 years at what an insurance company may be planning regarding acquisitions, corporate governance and potential growth. Under the current procedure the financial examination is looking back, which only allows an opportunity to

be reactive. She acknowledged that while it's rare to add a new chapter, it's not unheard of.

CHAIR COSTELLO asked if a particular situation precipitated the change.

MS. WING-HEIER answered no and added that the new chapter was created because it didn't particularly fit within any of the existing chapters.

[1:31:49 PM](#)

SENATOR ELLIS asked her position on rate review authority by the Division of Insurance.

MS. WING-HEIER replied the division has rate review authority over most insurance products that come into the state and they take this seriously. They have a consulting actuary and an actuary on staff. The reviews are done very carefully and according to a standard to ensure that the consumer isn't paying too much or too little. "[The rate] has to come through so many days in advance, we respond, they cannot be inadequate, they cannot be excessive and they cannot be unfairly discriminatory." Some people think these terms are ambiguous because it depends on perspective, but when she looks at a rate she follows the statute and is looking at whether it makes the company solvent without being excessive.

SENATOR ELLIS discussed the sentiment among some legislators in years past that previous directors of insurance did just cursory reviews of the filings and requests from insurance companies, particularly with regard to health insurance. He related that several years ago he was confounded when then insurance director Linda Hall turned down federal funds to allow states to figure out why consumers were being charged certain rates for health insurance. He said she may have been acting at the direction of the governor, but it was almost willful ignorance to turn down the ability to dig into the facts and come up with an answer for consumers. He encouraged Ms. Wing-Heier take advantage of any opportunity to learn the facts about why health insurance costs in Alaska are so high.

MS. WING-HEIER said the point is well taken.

[1:37:36 PM](#)

SENATOR MEYER asked if the insurance market in Alaska is competitive.

MS. WING-HEIER replied it is competitive in some lines of business such as auto and homeowner, but not others. The market in health care is limited and it is not competitive.

SENATOR MEYER asked if she gives approval when one company transfers its customers to another because of bankruptcy, or if it happens automatically.

MS. WING-HEIER replied the matter goes through the division but they don't approve it. The claims go through either the guarantee association for life and health or the guarantee association for property and casualty. The insurance companies and the consumers end up paying the claims of the insolvent insurers. These provisions are in the insurance statutes.

[1:39:38 PM](#)

SENATOR GIESSEL asked her thoughts as to whether it would lower health insurance costs if Alaskans were able to buy their health insurance across state lines or if insurance rates are set based on cost.

MS. WING-HEIER said she has been involved in several meetings with the Department of Health and Social Services (DHSS), Department of Labor and Workforce Development (DOLWD), and the Department of Administration to look at the issue in a more global way because it is an issue that the state faces as a whole. It is not a silo. The cost of health care in Alaska is very high and someone is paying for it through one program or another.

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SENATOR ELLIS requested the committee keep track of this issue and have an ongoing dialog with the director because this has been a topic of concern for many years. He asked Ms. Wing-Heier if it is her view that health insurers do not want to write business in Alaska because it is a very small market and the cost of health care is so high it is out of line with the rest of the country.

MS. WING-HEIER agreed that Alaska is a small market and the costs of health care are very high.

SENATOR ELLIS reiterated his request that the committee work with the director to examine the reasons for the exorbitant and escalating health care costs in Alaska that are driving both the private market and public budgets.

CHAIR COSTELLO said she took note of the request and would follow up.

SENATOR GIESSEL asked Ms. Wing-Heier if she was also partnering with the health care commission, which has done studies on the topic of health care in Alaska.

MS. WING-HEIER answered yes through the Department of Health and Social Services.

[1:44:18 PM](#)

CHAIR COSTELLO asked if transparency can be legislated so that consumers will know the cost of health care services when they are shopping.

MS. WING-HEIER replied the Affordable Care Act has provisions where the costs have to be public now. By statute rates in Alaska have to be public the day they are effective.

[1:46:47 PM](#)

CHAIR COSTELLO related her experience calling different doctors in Fairbanks and Anchorage to find out what it would cost to treat a broken arm. The estimates ranged widely. She voiced frustration on behalf of Alaskans who have no idea what the final cost will be for a procedure and they keep getting bills from people they didn't know had a role in the process.

MS. WING-HEIER said she'd take that under advisement.

CHAIR COSTELLO asked if she would provide a color coded sectional showing the new chapter, the sections needed for accreditation, the model legislation, and a combination of the three.

MS. WING-HEIER agreed.

[1:47:50 PM](#)

CHAIR COSTELLO found no public testimony and closed it.

[1:48:07 PM](#)

CHAIR COSTELLO announced that she would hold SB 107 in committee for further consideration.

[1:48:20 PM](#)

At ease

**SB 99-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG**

[1:51:32 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 99. "An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; 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 providing for an effective date." She noted that this was the second hearing and public testimony was open. She noted that the sponsor's staff and Carmen Gutierrez would tag team to present the new sectional for the bill.

[1:52:32 PM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, informed the committee that the Title 4 rewrite accomplishes its overall goal by modifying the role and composition of the ABC Board, clarifying and simplifying the three-tier system of alcohol regulations, and changing the penalty provisions. He began reviewing the sections of the bill.

Section 1 repeals and reenacts AS 04.06.020, relating to the appointment and qualifications of members of the Alcoholic Beverage Control Board. There will be one member from public safety, one member from public health, one member who has lived in a rural area within the last five years, and not more than two members may be actively involved in the alcohol industry. This section also allows the governor to take into consideration the experience of the executive director and appoint a public member to offset that experience/influence.

[1:54:08 PM](#)

CHAIR COSTELLO asked for an explanation of the composition of the current ABC Board.

MR. KOPP read AS 04.06.020. The board consists of five members: two members shall be actively engaged in the industry, three members will represent the general public, one of which shall reside in a rural area.

Section 2 changes "chairman" to "chair" in AS 04.06.030.

Section 3 changes "chairman" to "chair" in AS 04.06.050.

Section 4 amends AS 04.06.075 by adding a subsection requiring the director to prepare a budget for the board. This includes everything for the administration and enforcement of Title 4 as well as education, training, and prevention activities.

Section 5 conforms a reference in AS 04.06.080 to reflect the relocation of AS 04.11.070 to AS 04.06.090(b); adds the endorsements, which expand the boundaries of a licensed premises or the authorized activities.

Section 6 amends AS 04.06.090(b) to include the language of AS 04.11.070 relating to the exclusive power of the board to issue, renew, transfer, relocate, suspend, or revoke a license, and adds references to endorsements. AS 04.11.070 is repealed.

Section 7 adds new subsections to AS 04.06.090, relating to the powers and duties of the board. Subsection (f) requires the board to develop a comprehensive plan to educate the public on the responsible use of alcoholic beverages and update the plan annually. Subsection (g) requires the board to review the fees established in AS 04 and regulations adopted under AS 04 at least every 10 years. Subsection (h) provides that the board may prepare an advisory opinion on legislation amending AS 04.

Section 8 amends AS 04.06.095, relating to the statewide database on shipments to purchasers in local option areas to require retention of the records in the database for 10 years. It adds a reference to the new package store shipping endorsement.

Section 9 adds a subsection to AS 04.06.095 requiring the board to produce a report of aggregate regional and statewide data from the database, including information on the volume of alcohol shipped to communities and the region from which the shipments originated.

[1:58:29 PM](#)

CARMEN GUTIERREZ, Contractor, Alaska Mental Health Trust Authority, Anchorage, Alaska, continued the sectional analysis of SB 99.

Section 10 revises various provisions in the existing licensing provisions found in AS 04.11.080 - 04.11.255 and relocates them to a new chapter, AS 04.09. It specifies fees for each license type, and penalties for noncompliance and operating without the

appropriate license. It separates the provisions for manufacturing of alcoholic beverages and retail sales and sampling by manufacturers. It adds a definition of "packaging" applicable to manufacturer licenses. Existing retail operations of manufacturers are grandfathered for eight years. It adds a beverage dispensary tourism license and a seasonal restaurant or eating place tourism license. It codifies the theatre license currently provided for in regulation.

This section codifies endorsement and permit provisions. Some of the endorsement and permit provisions are drawn from current licensing statutes; some are based on endorsements and permits provided for in regulations. It replaces duplicate licenses under existing statute with a new multiple fixed counter endorsement, but grandfathers existing duplicate licenses for eight years. It creates a new endorsement permitting sampling at package stores.

MS. GUTIERREZ explained that the new chapter was created because the revisions to the licensing chapter were significant and this was the best way to implement the badly needed reorganized structure. She reminded the committee that Alaska's alcohol licensing system is based on a three-tier system of regulation. The three types of licenses the board may issue are manufacture, wholesale and retail.

She highlighted the major changes that the new chapter 09 provides. All the licensing types available to manufacturers continue to exist; they are brewery, winery, and distillery. There continues to be wholesale licenses; these are general wholesale and limited malt beverage and wine wholesale. Then there are the retail licenses. The new chapter simplifies the manufacturing licenses by removing bottling works and brewpubs. Bottling works is covered under the winery license and the brewery manufacturing license incorporates most of the brewpub provisions.

AS 04.09.270 adds brewery retail licenses specifically for manufacturers to permit the opportunity for onsite consumption and offsite sales. It also provides a separate endorsement for free samples. This reflects the change in the market while ensuring that the market between the retailers and the manufacturers does not become lopsided. It provides equity among manufactures and permits wineries and breweries to have a restaurant or eating place license. This chapter also removes the prohibited financial interest restrictions in AS 04.11.450.

The provision currently does not permit a manufacturer to hold a restaurant or eating place license.

The new chapter 09 makes population limitations applicable only to retail tier licenses. This excludes tourism and public convenience license provisions. It also places a permanent moratorium on issuing new public convenience licenses and replaces the existing ones with a new license type that allows for seasonal restaurant or eating place licenses in small communities and unincorporated areas. This reflects the increase in Alaska's population during the tourism season. The new chapter clarifies the parameters that would allow and require multiple fixed counters for an established dispensary license. This eliminates the duplicate licensing system, but the existing duplicates are grandfathered.

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The new chapter 09 adds a beverage dispensary tourism license and seasonal restaurant or eating place tourism license in recognition of summer travelers. The chapter ensures that the definition of recreation license is applied to current and potential recreational site holders. There is a provision to review and revoke licenses that do not meet the plain language of the definition of "recreation." The chapter updates every licensee provision as well as the endorsements and permits, the fees are updated to ensure they are proportionate to the administrative cost of each kind of license. The intent is that they will be sufficient to cover the ABC Board statutorily required activities. The fees have been adjusted for both wholesale license types.

[2:07:27 PM](#)

CHAIR COSTELLO asked for confirmation that she was still discussing Section 10.

MS. GUTIERREZ said yes and that it probably requires more explanation than any other section.

MR. KOPP pointed out that Section 10 is found on pages 5-44.

MS. GUTIERREZ continued to discuss Section 10. She explained that AS 04.09.320 through AS 04.09.340, starting on page 25, line 30, specify the penalties for noncompliance and operating without a license.

The provisions related to the endorsements are found on pages 26-38 in AS 04.09.360 through AS 04.09.470. Endorsements are

intended to expand the boundaries of a licensed premise for authorized additional activity.

AS 04.09.500 through AS 04.09.600 relate to permits, placing them all in statute rather than regulation. The language in chapter 9 is clear that the ABC Board may only issue licenses, endorsements, and permits that are outlined in statute.

[2:12:17 PM](#)

Section 11 amends AS 04.11.010(a) to eliminate references to manufacture and sale, and limit the prohibition in the subsection to possession for barter, bartering, and trafficking of alcoholic beverages. This reflects that the prohibition is in chapter 09.

Section 12 amends AS 04.11.010(b) to change a reference from AS 04.11.150, the former location of the package store license section, to AS 04.09.420, the new package store shipping endorsement section.

Section 13 amends AS 04.11.010(c), relating to possession or transport of a certain quantity of alcoholic beverages creating a presumption that the alcoholic beverages were possessed or transported for barter or sale. It amends the presumption to include possession for barter, and possession for sale under AS 04.09.060, 04.09.070, 04.09.145, 04.09.320, or 04.09.330.

Section 14 amends AS 04.11.015(b) to specify a \$100 fine for violation of subsection (a). This is to ensure that the courts are not able to suspend those fines and that a suspended imposition of sentence could not be imposed by the court.

Section 15 adds a new subsection AS 04.11.015(c), changing the penalty for purchasing alcoholic beverages from a non-licensee from the standard penalty for a violation prescribed under AS 12.55 to a fine of \$100 per liter purchased.

[2:15:08 PM](#)

Section 16 adds a specific criminal penalty provision for transferring a license or permit or interest not in accordance with AS 04.11.040. The penalty is a \$100 fine.

Section 17 adds specific criminal penalty provisions making failure of an LLC to report a change in member interest or manager as required under AS 04.11.045 a violation.

Section 18 adds a specific criminal penalty provision making failure of a corporation to report a stock transfer or change of officers or board members as required under AS 04.11.050 a violation.

Section 19 adds specific criminal penalty provisions making failure by a partnership to report a transfer of partnership interest or change of general partner as required under AS 04.11.055 a violation.

Section 20 changes a reference in AS 04.11.060 to reflect the new section number of the general wholesale license statute.

Section 21 adds two new subsections to AS 04.11.060, defining failure to comply with subsection (a) as a violation, with each liter or fraction of a liter sold as a separate violation punishable by a \$100 fine.

SENATOR MEYER referenced Section 16 and questioned whether a \$100 fine is enough to deter the unwanted behavior.

MS. GUTIERREZ said the penalties in Sections 15-19 are criminal penalties, but the ABC Board has administrative remedies that can be very severe, including suspension or revocation of a license and an administrative fine of up to \$50,000. The workgroup involved in the rewrite of Title 4 sanctions believe that these kinds of violations can be better addressed by the ABC Board than the criminal justice system.

[2:19:49 PM](#)

VICE CHAIR GIESSEL assumed the gavel.

[2:20:52 PM](#)

MR. KOPP continued the sectional analysis for SB 99.

Section 22 amends AS 04.11.260, relating to applications, to apply to endorsements as well as licenses and permits. It requires applications to include an annotated illustration of the premises. It adds new requirements for various specific types of endorsements and permits.

Section 23 amends AS 04.11.270 to cover renewal of the specified endorsements and permit as well as licenses.

Section 24 amends AS 04.11.295(a) relating to fingerprints and criminal justice information required for issuance and renewal of a conditional contractor's permit.

Section 25 amends AS 04.11.295(b)(1) relating to applications for issuance and renewal of a conditional contractor's permit. These are two-year licenses for construction sites in remote areas and inside the boundaries of military reservations not inside a municipality.

Section 26 adds a new section AS 04.11.315 relating to the crime of making a false statement on an application under AS 04.11.260 - 04.11.310. The existing AS 04.16.210, relating to false statements on applications, is repealed. The penalty for perjury remains a class B felony.

Section 27 amends AS 04.11.320(a) relating to denial of licenses by the board to encompass denial of endorsements.

Section 28 amends AS 04.11.330(a), relating to denial of an application for renewal of a license, to include endorsements. It changes a reference from AS 04.11.400(d) to the new AS 04.09.300 and 310, requiring the board to decline an application for renewal of a beverage dispensary tourism license or a seasonal restaurant or eating place tourism license if the board finds the license has not encouraged tourist trade.

Section 29 amends AS 04.11.330(d) to conform a reference to a section that is now in AS 04.09.

Section 30 amends AS 04.11.340 relating to grounds for refusal of an application for relocation of a license to add a reference to the new AS 04.09.240. It requires denial of applications to relocate outdoor recreation lodge licenses.

Section 31 changes references in AS 04.11.360(9), the statute relating to denial of a request to transfer a license to another person. This statute requires denial of requests to transfer outdoor recreation lodge licenses. It deletes paragraph (10) relating to brewpubs because AS 04.11.135 is repealed.

[2:24:33 PM](#)

MS. GUTIERRES continued the sectional analysis.

Section 32 amends AS 04.11.365 relating to licensed premises in residential housing developments owned or funded by the Alaska Housing Finance Corporation to reflect the new restaurant endorsement statute.

Section 33 amends AS 04.11.370, relating to suspension and revocation of licenses and permits, to include endorsements.

Section 34 adds a reference to endorsements in AS 04.11.395, relating to board imposed conditions on licenses, permits, and endorsements.

Section 35 amends AS 04.11.400(a), relating to licenses and population limits. It adds a limit of one brewery retail, winery retail, or distillery retail license per [10,000] people. It adds a radius to the population limit in paragraph (a)(1).

Section 36 repeals and reenacts AS 04.11.400(i). The subsection currently excludes golf course licenses from the population limits statute; the reenacted subsection includes a list of nine license types and one permit type to which the requirements of AS 04.11.400 do not apply. Those license types are listed on page 57, lines 18-31,

Section 37 conforms a reference in AS 04.11.400(k).

Section 38 amends AS 04.11.450(b) to remove a reference to a bottling works, since AS 04.11.120 is being repealed. It removes a sentence relating to brewpubs, since AS 04.11.135, the brewpub statute, is repealed. It adds a sentence prohibiting issuance of a restaurant or eating place license to an owner of a wholesale business or distillery.

Section 39 makes a conforming change to the name of a license in AS 04.11.450(e).

Section 40 amends AS 04.11.470 to cover objections to the issuance and renewal of endorsements.

Section 41 amends AS 04.11.480(a) to cover a local government protest of the issuance, renewal, or operation of an endorsement.

Section 42 amends AS 04.11.480(b) to add endorsements.

Section 43 amends AS 04.11.480(c) to cover local government recommendations for conditions on the issuance or renewal of an endorsement.

[2:29:42 PM](#)

MR. KOPP continued the sectional analysis.

Section 44 makes conforming changes to AS 04.11.491(a) that speaks to the local option for a municipality and repeal of the prohibition of importation and sale of alcoholic beverages. This is one prohibition that the committee and the consortium decided didn't make sense. AS 04.11.491(a)(4) is repealed in the repealer section.

Section 45 makes conforming amendments to AS 04.11.491(b). The repeal of paragraph (b)(3) is in the repealer section.

Section 46 makes conforming amendments to AS 04.11.491(d), the wording requirements on ballots in local option elections.

Section 47 makes conforming amendments to AS 04.11.491(g), the local options in both municipalities and established village elections. Paragraph (g)(3) is repealed.

Section 48 amends AS 04.11.497 relating to the effect of adoption of a prohibition on the sale of alcoholic beverages in a local option area on existing licenses to conform references to reflect renumbering. It expands the boundaries of the area from five to 10 miles. It adds an exception permitting renewal of existing outdoor recreation lodge licenses.

Section 49 amends AS 04.11.499(a) to delete references to repealed paragraphs. It adds an exception to the prohibition on importation for outdoor recreation lodges.

Section 50 creates an exception in AS 04.11.501(a) to the prohibition on possession of alcohol in a dry community for outdoor recreation lodge license holders, agents, employees, and guests.

Section 51 adds a reference to AS 04.11.501(a) in AS 04.11.501(b). This addresses length of time before prohibition of possession becomes effective after an election has occurred.

Section 52 amends AS 04.11.503, relating to the effect of a local option election restricting sale on existing licenses, to permit the board to renew existing outdoor recreation lodge licenses, and provide that outdoor recreation lodge licenses are not void 90 days after the results of a local option election are certified. It also expands the boundary of the area from five miles to 10 miles.

Section 53 amends AS 04.11.505(a) to change the local option radius and permit renewal of existing outdoor recreation lodges

only in areas that opt to allow only licensed premises operated by a municipality.

Section 54 amends AS 04.11.508(a) to expand the perimeter of a local option area for an established village from five miles to 10 miles.

Section 55 conforms references in AS 04.11.509(b) to reflect the repeal of AS 04.11.491(a)(4) and (b)(3). This section deals with the notice of the results of a local option election. It specifically reflects the repeal of both the municipal and village sale and importation option

Section 56 amends AS 04.11.520 to limit the requirement of notice to a local government to applications for issuance or renewal of a license or endorsement, or transfer of a license to another person or a new location.

Section 57 amends AS 04.11.535(a) to include endorsements and permits, records of conviction, and judgments.

Section 58 amends AS 04.11.537, application of precedent, to cover issuance and renewal of an endorsement.

Section 59 amends AS 04.11.540 to include endorsements.

Section 60 amends AS 04.11.560(b), relating to appeals to the superior court, to include endorsements.

Section 61 amends AS 04.11.570, relating to refund and forfeiture of fees, to include endorsements and permits.

Section 62 amends AS 04.11.580, relating to surrender and destruction of a license, to add endorsements.

Section 63 amends AS 04.11.590(a), relating to disposition of money, to include endorsements and permits.

[2:37:25 PM](#)

SENATOR STEVENS referred to page 63 and asked if he was reading it correctly that even if the voters prohibit importation, an outdoor recreational lodge could continue to import alcoholic beverages.

MR. KOPP replied that is correct. The consortium agreed that existing outdoor recreational lodges that hold a license are

grandfathered but the exception does not transfer to a subsequent owner. He asked Ms. Gutierrez to confirm his answer.

MS. GUTIERREZ said the exception does not terminate after a specified period of time.

SENATOR STEVENS questioned why there should be an exception for a lodge if a community voted to be dry.

MR. KOPP asked Ms. Gutierrez if she recalled the discussion that led to the exception.

MS. GUTIERREZ said the Local Option Subcommittee vetted the question and decided that having lodges provide their customers only with alcoholic beverages would not impinge on the intent of a local option prohibition. Those lodges need the exception because they are importing alcoholic beverages but they are not selling to the general public. She said she wasn't involved in that particular subcommittee but the exception was approved by the entire steering committee.

[2:43:18 PM](#)

SENATOR STEVENS observed that the provision does not say that only lodge guests would be served or that alcoholic beverages would not be sold to the public. "Democracy is that if a community decides they want no alcohol in their community, you're leaving an opening for people that are not customers of the lodge and also to the public." He questioned why the language doesn't clearly say "customers only."

MS. GUTIERREZ directed attention to page 18, line 17-[20], which is where the outdoor recreation lodge license exists. It permits a holder of that license "to sell alcoholic beverages to a registered overnight guest or off-duty staff of the lodge for consumption on the licensed premises or in conjunction with purchased outdoor recreation activities provided by the licensee."

SENATOR STEVENS said he wouldn't pursue it but he did not agree

MR. KOPP suggested that Ms. Franklin or Mr. Jessee may have supplementary information.

VICE CHAIR GIESSEL found neither were available and suggested that Senator Stevens flag that for questions at a future meeting.

2:46:45 PM

MS. GUTIERREZ continued the sectional analysis.

Section 64 changes terminology in AS 04.11.610 from "refund" to "allocate," adds municipal reporting requirement. This relates to the biannual fees that licensees pay and how that money is allocated to municipalities. Subsection (b) is amended to provide that if a municipality fails to provide a report of Title 4 violations occurring in the municipality, the municipality's allocation of licensing fees may be denied.

Section 65 amends AS 04.11.630(b) to require that endorsements and permits be posted on the licensed or designated premises.

Section 66 amends AS 04.11.680(a), specifying a default term for sampling endorsements and conditional contractor permits.

Section 67 amends AS 04.16.010(c), relating to entry on licensed premises between five a.m. and eight a.m. to permit entry by a person conducting business with the licensee, a person who is a common carrier, and maintenance and construction workers.

Section 68 amends AS 04.16.010, relating to hours of sale and presence on licensed premises, to add crime and penalty subsections. It makes noncompliance a violation, punishable by a fine of \$100, with each hour or part of an hour constituting a separate violation.

Section 69 amends AS 04.16.015(a) to include the concept of "alcoholic drink" as defined in AS 04.21.080.

Section 70 amends AS 04.16.015, on pricing and marketing of alcoholic beverages, to add crime and penalty subsections. It makes noncompliance a violation, punishable by a fine of \$50 per alcoholic drink.

Section 71 adds a new AS 04.16.017, relating to unfair trade practices. It is modeled on 27 U.S.C. 205.

2:52:06 PM

MR. KOPP continued the sectional analysis.

Section 72 adds subsections to AS 04.16.020 to make solicitation of alcoholic beverages and purchase on behalf of another violations, punishable by a fine of \$100.

Section 73 adds references to AS 04.16.025(a), relating to entering and remaining on premises where illegal sale, barter, or trafficking of alcoholic beverages is taking place, to include new sections on operating without a license.

Section 74 adds crime and penalty provisions to the existing AS 04.16.030 to make prohibited conduct relating to drunken persons a violation, rather than a class A misdemeanor.

Section 75 amends AS 04.16.035 to apply the prohibition on possession of ingredients for homebrew to all local option areas, rather than just those that have adopted a prohibition on sale, importation, and possession.

Section 76 adds new subsections to AS 04.16.035 specifying that possession of homebrew ingredients is a class A misdemeanor.

Section 77 amends AS 04.16.040 to use the defined term "licensed premises" rather than "premises licensed under this title."

Section 78 adds new subsections to AS 04.16.040 making access by a drunken person to licensed premises a violation.

Section 79 adds new subsections to AS 04.16.045 to make permitting unauthorized consumption on licensed premises a violation; specifies that each drink consumed is a separate violation punishable by a fine of \$50.

Section 80 adds a subsection to AS 04.16.047 defining conduct prohibited under (a) as a class A misdemeanor.

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MS. GUTIERREZ advised that virtually every act that violates a provision of Title 4 is a class A misdemeanor. This change was made because the committee determined that law enforcement was not occurring when Title 4 was violated. She continued the sectional analysis.

Section 81 amends AS 04.16.049(a), relating to access by minors to licensed premises, to replace a reference to designation by the board as a restaurant with a reference to the restaurant endorsement issued under AS 04.09.410. It adds a reference to AS 04.09.180(g), permitting access to club premises by a person under 21 years of age if no alcoholic beverages are present or if the person has an active duty military card. Changes "age of 21 years" to "21 years of age" to conform to the current drafting style.

Section 82 changes "age of 21 years" to "21 years of age" in AS 04.16.049(b) to conform to the current drafting style.

Section 83 amends AS 04.16.049(c) to replace a reference to designation by the board as a restaurant with a reference to the restaurant endorsement issued under AS 04.09.410 and to include golf courses.

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Section 84 amends AS 04.16.049(d) to allow employment of persons who are 18, 19, or 20 years old on golf courses.

Section 85 adds a new subsection (g) to AS 04.16.049 to permit access by minors to golf courses for the purpose of playing golf. It adds new subsections making unauthorized presence by a minor on licensed premises a violation, punishable by a fine of \$500. The fine may be reduced by a court to \$50 if the minor shows proof of completion of an alcohol safety action program.

Section 86 repeals and reenacts AS 04.16.050 to make minor consuming a violation.

There are conforming changes to AS 28.15.057(a), and the repeal of AS 21.96.027, relating to motor vehicle insurance after driver's license revocation under AS 04.16.050 (with a conforming amendment to AS 21.36.210(a)), AS 28.15.181(h), 28.15.185(e), AS 47.12.030(b)(5), 47.12.060(b)(4) (with a conforming amendment to AS 28.15.176, on administrative revocation of driver's license), and AS 47.12.120(k).

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SENATOR STEVENS asked if alcohol safety action programs are available in all communities.

MS. GUTIERREZ replied representatives with the Department of Health and Social Services (DHSS) indicated that the department will be able to provide the programs throughout the state, although some may be through online or study at home programs.

SENATOR MEYER expressed concern that reducing the penalties for minors to a violation and fine rather than a misdemeanor may make youths think that alcohol offenses are not serious. He asked if this is modeled in other states.

MS. GUTIERREZ said she didn't know what other states do, but when the Underage Drinking Subcommittee reviewed court system

data and found these cases were being dismissed. The goal in this amendment is to ensure that more minors will be held accountable. If unpaid, their fine will be deducted from their PFD and their parents notified of the available alcohol education programs. The consensus of the subcommittee was that this change would do more to get the attention of minors than the current system. This change also does away with the status offense, which jeopardizes federal funds. She suggested that Ms. Franklin supplement the answer.

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CYNTHIA FRANKLIN, Director, Alcoholic Beverage Control (ABC) Board, Department of Commerce, Community and Economic Development (DCCED), related that she was approached several years ago by Anchorage district judges who were dissatisfied with some of the injustices that were occurring due to the minor consuming statutes. Judges were unable to change the penalties based on circumstances before them. As a prosecutor she too witnessed these injustices and became very concerned about the way that the minor consuming laws are not working in the state. Young people are not supposed to be jailed for a status offense, but that does happen.

The Underage Drinking Subcommittee studied the penalties in some other states and found wide variation. She and several Alaska judges attended a juvenile justice conference last year and learned that any federal funds a state receives could be jeopardized if it is determined that young people are incarcerated for status offenses. They returned with an urgency to amend the statute. She conceded that on first glance the penalties may not seem serious, but her experience as the Anchorage municipal prosecutor is that anything that is consistently applied is effective. The Underage Drinking Subcommittee concluded that this was a good approach to try, because it will be applied consistently. It will make the ticket easier to write and it will decrease the places in the system where the young person ends up with no consequence.

SENATOR STEVENS asked if the penalties increase on a second offense.

MS. FRANKLIN answered no; that's the current scheme and it doesn't necessarily work. The consensus is that this new concept is worth a try.

SENATOR STEVENS expressed optimism for its success.

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SENATOR MEYER asked what happens to a minor who attempts to buy an alcoholic beverage, and if this new law will impact the civil fines that licensed establishments rely on to discourage minors from attempting to purchase an alcoholic beverage.

MS. FRANKLIN replied the civil penalty was not changed because the industry views it as a useful tool. However, the hope is that the new easier to write tickets will result in licensees receiving more assistance from law enforcement so they will become less reliant on pursuing their own civil penalty.

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VICE CHAIR GIESSEL polled the committee and the consensus was to continue the sectional analysis at the next meeting.

MR. KOPP reviewed the current escalating penalties for minor consuming.

VICE CHAIR GIESSEL announced she would hold SB 99 in committee for further consideration.

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There being no further business to come before the committee, Vice Chair Giessel adjourned the Senate Labor and Commerce Standing Committee meeting at 3:21 p.m.