

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

February 16, 2016

1:32 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Senator Johnny Ellis

**COMMITTEE CALENDAR**

SENATE BILL NO. 142

"An Act relating to insurance coverage for anti-cancer medications."

- MOVED CSSB 142(L&C) OUT OF COMMITTEE

SENATE BILL NO. 131

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the excise tax on alcoholic beverages; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 133

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the taxes on cigarettes and tobacco products; taxing electronic smoking devices; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 142

SHORT TITLE: INSURANCE FOR ANTI-CANCER MEDICATION

SPONSOR(S): SENATOR(S) GIESSEL

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) L&C  
02/04/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)  
02/04/16 (S) Heard & Held  
02/04/16 (S) MINUTE(L&C)  
02/16/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 131

SHORT TITLE: ELECTRONIC TAX RETURNS & ALCOHOL TAX

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) L&C, FIN  
02/16/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 133

SHORT TITLE: ELECTRNIC TAX RETURNS;TOBACCO & E-CIGS TAX

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/19/16 (S) READ THE FIRST TIME - REFERRALS  
01/19/16 (S) L&C, FIN  
02/16/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

**WITNESS REGISTER**

WESTON EILER, Staff  
Senate Labor and Commerce Committee and Senator Mia Costello  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Explained the changes in the CS for SB 142.

BRANDON SPANOS, Deputy Director  
Tax Division  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented SB 131 and SB 133 on behalf of the administration.

KEN ALPER, Director  
Tax Division  
Department of Revenue (DOR)  
Juneau, Alaska,

**POSITION STATEMENT:** Participated in the discussion of SB 131 and SB 133.

DR JAY BUTLER, Chief Medical Officer  
Department of Health and Social Services

Anchorage, Alaska,

**POSITION STATEMENT:** Provided information related to tobacco and e-cigarette use during the discussion of SB 133.

CHRYSTAL SCHOENROCK, representing herself

Foreland Bar

Nikiski, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131 and SB 133.

JOEL KADARAUCH, representing himself

Alaska Beer, Wine & Spirits/ODOM Corporation

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131.

RYAN MAKINSTER, representing himself

Brewers Guild of Alaska

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131.

DALE FOX, President

Alaska CHARR

Anchorage, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131.

JACK MANNING, representing himself

Duck Creek Market and president

Juneau CHARR

Juneau, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131.

JOHN JACKOVICH, representing himself

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131.

BILL FRY, representing himself

Bear Creek Winery

Homer, Alaska

**POSITION STATEMENT:** Testified that SB 131 is excessive.

LARRY HACKENMILLER, Secretary

Interior CHARR,

Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to SB 131.

#### **ACTION NARRATIVE**

[1:32:11 PM](#)

**CHAIR MIA COSTELLO** called the Senate Labor and Commerce Standing Committee meeting to order at 1:32 p.m. Present at the call to order were Senators Giessel, Meyer, and Chair Costello. She reviewed the agenda.

**SB 142-INSURANCE FOR ANTI-CANCER MEDICATION**

[1:33:34 PM](#)

CHAIR COSTELLO announced the consideration of SB 142. She relayed that this is the second hearing and public testimony is closed.

[1:34:14 PM](#)

SENATOR GIESSEL moved to adopt the work draft committee substitute (CS) for SB 142, labeled 29-LS1133\W, as the working document.

CHAIR COSTELLO found no objection and version W was before the committee.

[1:34:38 PM](#)

WESTON EILER, Staff, Senate Labor and Commerce Committee and Senator Mia Costello, explained that the CS for SB 142 adds a new subsection (c) on page 2, lines 4-6, that says "Nothing in this subsection prohibits a health care insurance plan from requiring different cost-sharing rates for in-network and out-of-network providers or pharmacies." The sponsor brought this up as a conceptual amendment at the last hearing at the suggestion of the Division of Insurance.

[1:35:23 PM](#)

SENATOR GIESSEL moved to report the CS for SB 142, labeled 29-LS1133\W, from committee with individual recommendations and attached fiscal note(s).

SENATOR STEVENS joined the committee.

[1:35:35 PM](#)

CHAIR COSTELLO announced that without objection, CSSB 142(L&C) is reported from the Senate Labor and Commerce Standing Committee.

[1:35:38 PM](#)

At ease

**SB 131-ELECTRONIC TAX RETURNS & ALCOHOL TAX**

[1:37:46 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 131.

[1:39:30 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue (DOR), introduced SB 131 on behalf of the administration, starting with the history. The alcohol tax in Alaska began in 1933 and the basic structure has stayed the same since 1937. The tax is charged and collected monthly at the wholesale level.

CHAIR COSTELLO asked how the tax is charged and collected.

MR. SPANOS explained that licensed, bonded warehouses can import alcohol into those warehouses and the tax is due when it is sold from those warehouses. Alternatively, if a company buys and imports alcohol, the tax is levied when it's imported. There is also a tax on brewing or distilling spirits in the state. That tax is due when the alcohol is sold.

Continuing to review the history, he said the tax rate has increased with inflation and public need and to keep up with other states. The last major change in the alcohol tax was in 2002 when the tax was raised to 10 cents per drink. At that time, the Alcohol and Other Drug Abuse Treatment and Prevention Fund was created and 50 percent of the tax goes to that fund, subject to appropriation. Currently, revenue from the alcohol tax is about \$40 million per year, so about \$20 million goes to the Treatment and Prevention Fund for the mental health budget.

[1:41:39 PM](#)

CHAIR COSTELLO asked how the administration came up with the dime a drink slogan for the bill, because it could be more than that, depending on the amount of alcohol in the drink.

MR. SPANOS replied it's based on the 2002 legislation when the tax was increased. A review of the history of that legislation indicated that one ounce of distilled spirits, five ounces of wine, or 12 ounces of beer are each considered one drink. The dime was attached at that time and the administration is proposing to double that rate to 20 cents per drink. The exception is small craft brewery beer that has a tax of about 3.3 cents per drink for the first 60,000 barrels of beer sold in the state, provided the brewery meets the federal definition of a reduced rate brewer.

MR. SPANOS displayed a chart to show what doubling the tax rates to 20 cents per drink looks like. For distilled spirits, the rate goes from \$12.80 per gallon to \$25.60 per gallon. For wine, the rate goes from \$2.50 per gallon to \$5.00 per gallon. For beer, cider, or malt beverages, the rate goes from \$1.07 per gallon to \$2.14 per gallon. For small-brewery beer, the tax for the first 60,000 barrels goes from 35 cents per gallon to 70 cents per gallon.

Additionally, the bill requires electronic filing for all taxpayers and increases the bonding requirement from \$25,000 to an amount determined by DOR.

[1:43:34 PM](#)

MR. SPANOS revealed that Alaska's alcohol taxes currently are among the highest in the U.S. For wine, the taxes are the highest; for spirits Alaska is second highest behind Washington; and for beer Alaska is second highest behind Tennessee. If SB 131 were to pass, the alcohol tax rate in Alaska would be the highest in all three categories.

[1:44:18 PM](#)

SENATOR MEYER asked, "If we're already the highest, why would we want to double it."

MR. SPANOS replied the administration is trying to raise revenue from a variety of sources throughout the state and alcohol is part of that.

SENATOR MEYER commented that this has nothing to do with deterring drinking. "It's strictly a cash grab."

MR. SPANOS said that's correct.

CHAIR COSTELLO recounted a discussion in a House Labor and Commerce hearing that the increased tax would be enough of a deterrent that fewer people would drink. She asked him to respond to that and expressed hope that the administration would analyze the impact that all the taxes will have on the public and the budget.

MR. SPANOS confirmed the discussion took place and the administration responded that it had not done an analysis. Commissioner Hladick noted that his experience was that a tax increase results in a drop in use for a year and then it goes back up. That hasn't been confirmed, but a higher tax would

certainly factor into a person's decision about how much alcohol they might purchase, he said.

[1:46:17 PM](#)

SENATOR STEVENS asked if local taxes are added to the state alcohol taxes.

MR. SPANOS replied there are sales taxes in certain jurisdictions but he didn't know if there are specific taxes on alcohol. He offered to look into it.

SENATOR MEYER asked if the committee can expect to see an economic analysis of what doubling the alcohol tax would do to small businesses. He remarked that people may not stop drinking at home, but they may cut back consumption at bars and restaurants.

MR. SPANOS responded they haven't done that analysis but he'd take the request back for discussion.

Turning to the revenue impact of SB 131, he said the Department of Revenue estimates that doubling the tax rate will nearly double tax collections, or an additional \$40 million per year. He noted that that does not take into account any reduction in consumption. According to current statute, half or about \$20 million will be deposited to the Alcohol and Other Drug Abuse Treatment and Prevention Fund, subject to appropriation. The other \$20 million will be deposited to the unrestricted general fund. These estimates are based on the fall 2015 revenue forecast and do not account for stockpiling.

[1:48:18 PM](#)

MR. SPANOS stated that the estimated one-time cost to implement SB 131 is \$50,000. This will be used to update DOR's tax revenue management system (TRMS) and the revenue online (ROL) component, which allows taxpayers to file a return and apply for a tax license online, and make changes to the tax return and license application forms. No additional costs to administer the program are anticipated going forward.

MR. SPANOS displayed a two-part slide to show how the \$40 million alcohol tax increase fits into the Governor's plan to close the budget gap. He then reviewed the basic impacts of the alcohol tax proposal. Alcohol will be more expensive to buy and a slight decrease in consumption is anticipated due to the higher prices. There is also the possibility of stockpiling alcohol before the tax increase.

[1:49:28 PM](#)

MR. SPANOS read the following sectional analysis:

**Sec. 1.** Adds a \$25 or 1% tax penalty for failure to file electronically unless an exemption is received by the taxpayer.

**Sec. 2.** Requires electronic submission of tax returns, license applications, and other documents submitted to the Department of Revenue. This changes the general tax statutes, AS 43.05, and will apply to all tax types administered by the department. Provides a process to request an exemption if a taxpayer does not have the technological capability to do so.

**Sec. 3.** Changes the per-gallon tax rates for the three major categories of alcoholic beverages: malt beverages and ciders from \$1.07 to \$2.14; wine and other beverages with less than 21% alcohol content from \$2.50 to \$5.00; and beverages with greater than 21% alcohol content (generally distilled spirits) from \$12.80 to \$25.60.

**Sec. 4.** Changes the per-gallon tax rate for the first 60,000 barrels sold in the state from small craft breweries that meet the federal definition of a small brewer, from \$0.35 to \$0.70.

**Sec. 5.** Changes the statutes describing tax filing so that taxpayer must "submit" rather than "send" their statement and that it must be submitted "electronically in a format prescribed by the department."

**Sec. 6.** Changes the surety bond requirement from \$25,000 to an amount determined by the department.

**Sec. 7.** Clarifies that the tax increases apply to beverages sold after the effective date.

**Sec. 8.** Transitional language allowing for regulations.

**Sec. 9.** Immediate effective date for the transitional regulatory language in Sec. 8.

**Sec. 10.** Effective date of 7/1/16 for the rest of the bill including the tax rate changes.

[1:51:27 PM](#)

SENATOR STEVENS questioned the requirement to file electronically. "What do you lose if someone would prefer to file by mail?" he asked.

MR. SPANOS replied it's a cost savings that will allow a better use of resources. He clarified that the requirement will apply to all tax types.

SENATOR MEYER asked the difference between a small and large brewery.

MR. SPANOS recalled that a federally recognized small brewery can produce up to 2 million gallons per year and the first 60,000 barrels sold in Alaska is taxed at a reduced rate. He noted that none of the small brewers currently sell more than that in the state.

SENATOR MEYER asked the reason for that.

MR. SPANOS said he'd need to look at the history, but he assumes that larger brewers have larger economies of scale and this gives small brewers a competitive edge. He noted that the federal government has a similar statute.

[1:54:45 PM](#)

CHAIR COSTELLO asked what the tax increase will mean to a couple that orders an Alaskan Amber.

MR. SPANOS explained that the tax will double, but it's up to the retailer to decide what to charge for the beer. They could pass through the increase or charge more or less.

CHAIR COSTELLO asked if the administration has discussed the proposed increase with the affected businesses to learn what their concerns are.

MR. SPANOS said there are a lot of different bills and while he wasn't personally involved in a discussion with the alcohol industry, he assumes they took place.

CHAIR COSTELLO asked how many bills are involved in the Governor's Plan.

MR. SPANOS said he believes there are eight or nine bills and six or seven talk about taxes.

[1:56:51 PM](#)

SENATOR STEVENS pointed out that a martini or mixed drink probably contains two or three ounces of spirits so the tax increase would be substantially more than 10 cents.

MR. SPANOS confirmed that for three ounces of spirits the tax would be 30 cents more.

SENATOR GIESSEL requested information about the number of small breweries and large breweries in the state to better understand the economic impact this will have on Alaska businesses.

CHAIR COSTELLO asked if the administration is prepared to provide that.

MR. SPANOS said yes they'd provide what they can. He noted that all the breweries in Alaska are considered small breweries.

SENATOR GIESSEL clarified that she is looking for an economic analysis of the impact on Alaska businesses.

CHAIR COSTELLO offered her understanding that the administration worked with the Institute of Social and Economic Research (ISER) to look at the economic impacts on Alaskans from the tax proposals. She asked if Gunnar Knapp is still working on that project.

MR. SPANOS said he'd follow up.

[2:00:00 PM](#)

SENATOR MEYER emphasized the need for an economic analysis to understand the direct and indirect impacts of the proposed tax increase. "Our economy is already weak enough; I don't think we want to try to make it any weaker." He noted that he, too, thought ISER was going to do an analysis of all the Governor's tax proposals.

CHAIR COSTELLO set SB 131 aside until later in the meeting.

**SB 133-ELECTRNC TAX RETURNS;TOBACCO & E-CIGS TAX**

[2:01:19 PM](#)

CHAIR COSTELLO announced the consideration of SB 133.

[2:01:42 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue (DOR), introduced SB 133 on behalf of the administration, starting with the history. The tobacco tax began in 1949 and cigarettes have always been taxed separately than other tobacco products (OTP). The tax on OTPs was repealed in 1955 and reinstated in 1988 at 25 percent of the wholesale price. The last major change was in 1999 when the OTP tax was raised to 75 percent of the wholesale price. All revenue from this tax goes to the general fund.

There are two separate taxes on cigarettes. The first is a dedicated "base" tax of \$0.038 per cigarette that is deposited to the School Fund. The second, "additional" tax is \$0.062 per cigarette; 8.9 percent of this goes to the Tobacco Use Education and Cessation Fund, subject to appropriation, and the remainder goes to the general fund. The total of both taxes is \$0.10 per cigarette. For a pack of 20 cigarettes that is \$2.00 and it's paid through a stamp.

The proposed increase affects only the second or "additional" tax, increasing it by 5 cents, from \$0.062 to \$0.112 per cigarette. The total tax rises to \$0.15 per cigarette (\$3 for per pack of 20, an increase of \$1 per pack). The increased tax on other tobacco products (OTP) rises from 75 percent to 100 percent of the wholesale price.

The tobacco tax proposal also adds electronic cigarettes to the tax on OTPs, and clarifies the definition of "wholesale price" of a tobacco product or electronic smoking device. The bill also requires electronic filing and an exemption process.

MR. SPANOS reported that tobacco taxes in Alaska are higher than the U.S. average. For cigarettes the tax is 11<sup>th</sup> highest of the 50 states. For OTPs, Alaska is 8<sup>th</sup> highest of those states that use the wholesale price for calculating their tax. He noted that some states use weight to calculate the tax on OTPs. SB 133 would give Alaska the highest OTP tax and 5<sup>th</sup> highest cigarette tax in the U.S.

The Department of Revenue estimates increasing the cigarette tax will raise an additional \$24 million per year, 8.9 percent of which (or about \$2 million) would go to the Tobacco Use Education and Cessation Fund and the remainder (about \$22 million) would be deposited to the general fund. The other tobacco tax increase is estimated to raise an additional \$5

million per year and all of it would go to the general fund. The total revenue impact is estimated to be \$29 million per year.

The revenue estimates are based on the 2015 fall revenue forecast and do not account for changes in tobacco demand or stockpiling to avoid the tax increase. DOR anticipates that this could have a substantial effect in FY 2017. DOR lacks data to estimate the tax from e-cigarette sales but it will bring in additional revenue.

The estimated one-time cost to implement SB 133 is \$50,000. This will be used to update DOR's tax revenue management system (TRMS) and the revenue online (ROL) component, which allows taxpayers to file a return and apply for a tax license online, and make changes to the tax return and license application forms. No additional costs to administer the program are anticipated going forward.

MR. SPANOS displayed a two-part slide to show how the \$29 million tobacco tax increase fits into the Governor's plan to close the budget gap. The basic impacts of the tobacco tax proposal are that tobacco will be more expensive to buy so a slight decrease in consumption is anticipated due to the higher prices. There is also the possibility of stockpiling of cigarettes before the tax increase.

[2:07:59 PM](#)

MR. SPANOS read the following sectional analysis into the record:

**Sec. 1.** Adds a \$25 or 1% tax penalty for failure to file electronically unless an exemption is received by the taxpayer.

**Sec. 2.** Requires electronic submission of tax returns, license applications, and other documents submitted to the Department of Revenue. This changes the general tax statutes, AS 43.05, and will apply to all tax types administered by the department. Provides a process to request an exemption if a taxpayer does not have the technological capability to do so.

**Sec. 3.** Conforming language to add electronic smoking devices to the current statute allowing the department to share information with municipalities.

**Sec. 4.** Conforming language to reference the new definition of "electronic smoking device" in Section 13.

**Sec. 5.** Increases the "additional tax levy" on each cigarette from 62 mills to 112 mills.

**Sec. 6.** Increases the tax on tobacco products other than cigarettes from 75% of the wholesale price to 100% of the wholesale price. Adds electronic smoking devices to what is taxed.

**Sec. 7.** Conforming language to add electronic smoking devices to an existing statute referencing federal tax exemptions.

**Sec. 8.** Conforming language to add electronic smoking devices to the license requirement.

**Sec. 9.** Conforming language to add electronic smoking devices to the monthly tax return. Also adds new language to require electronic filing of the return.

**Sec. 10.** Conforming language to add electronic smoking devices to the procedures for issuing tax credits and refunds.

**Sec. 11.** Conforming language to add electronic smoking devices to the requirement to keep complete and accurate records to support the tax return.

**Sec. 12.** Adds language to clarify that a cessation product, tobacco dependence product or modified risk tobacco product are excluded from the definition of a tobacco product for purposes of taxation.

**Sec. 13.** Clarifies the definition of "wholesale price" of a tobacco product or electronic smoking device as the gross invoice price including all federal excise taxes, less any trade discounts or other reductions.

**Sec. 14.** Adds the definition of "electronic smoking device".

**Sec. 15.** Adds that the Act is applicable to tobacco products sold on or after the effective date of the

Act and applies to the first monthly return submitted after the first full month after the effective date.

**Sec. 16.** Allows the Department of Revenue to adopt regulations necessary to implement the changes made by this Act but not before the effective date.

**Sec. 17.** Section 16 of this Act takes effect immediately under AS 01.10.070(c).

**Sec. 18.** Except as provided in Sec. 16-17, effective date of July 1, 2016.

[2:10:59 PM](#)

CHAIR COSTELLO invited Mr. Alper to join Mr. Spanos.

[2:11:12 PM](#)

KEN ALPER, Director, Tax Division, Department of Revenue (DOR), introduced himself.

CHAIR COSTELLO asked if there was any discussion about whether the alcohol and tobacco taxes are regressive and the Alaskans who would be most affected. She asked him to start with the tobacco tax.

MR. ALPER suggested the committee ask the Department of Health and Social Services (DHSS) because that agency have records of how tax changes impact smoking rates. His experience from the restaurant industry is that tobacco use trends towards certain social groups and income levels, but use is declining. DOR's baseline estimates for the tobacco tax going forward 2-4 years shows a downward trend. The data indicates that there are fewer smokers in Alaska every year.

Nine bills were introduced to the legislature this year. Three are consumption taxes (alcohol, tobacco and motor fuel); three are business taxes (fisheries, mining and commercial passenger vessels); and three are bigger tax bills (income tax, oil and gas tax credit reform, and the Permanent Fund Protection Act). The broad idea of the Governor's fiscal plan is to solve the problem in total with everyone doing their part. There was no intent to single out any particular demographic or user group.

CHAIR COSTELLO asked what percentage of the deficit the tobacco tax will attempt to fill.

MR. ALPER replied the \$29 million estimated revenue is a little less than one percent of the \$3.7 billion estimated deficit.

CHAIR COSTELLO asked what percentage of the deficit the alcohol tax will fill.

MR. ALPER replied the alcohol excise tax brings in \$40 million incrementally which is between 1 percent and 1.25 percent of the deficit. Half of that goes to the Alcohol and Other Drug Abuse Treatment and Prevention Fund in the mental health budget, which is supplemented with about \$60 million from the general fund. If the additional \$40 million were deposited to the general fund, it would be a little more than 1 percent of the budget deficit.

[2:15:13 PM](#)

CHAIR COSTELLO asked Dr. Butler to respond to earlier questions about who is smoking in Alaska and who would be most affected by the tobacco tax bill if it were to pass.

DR JAY BUTLER, Chief Medical Officer, Department of Health and Social Services (DHSS) agreed with Mr. Alper that overall smoking rates are declining, and most rapidly among young people. In general, cigarette smoking is associated with lower education levels and the associated lower socio economic status. Smoking rates are also higher in rural areas and among Alaska Natives, particularly in Western Alaska and the North Slope.

CHAIR COSTELLO asked Mr. Alper to define a regressive tax.

MR. ALPER explained that it is generally understood to mean that lower income individuals pay a higher percentage of their income toward the tax than a higher income person.

CHAIR COSTELLO asked if the tobacco tax is regressive.

MR. ALPER confirmed that the effect would be regressive.

CHAIR COSTELLO asked how much a pack of cigarettes costs today.

MR. ALPER estimated it's between \$9.00 and \$10.00, \$2.00 of which is the current excise tax on tobacco. SB 133 seeks to increase the tax \$1.00 per pack.

CHAIR COSTELLO requested information on the impact in rural Alaska.

[2:18:10 PM](#)

MR. ALPER agreed to try to get the information. He added, "It will probably be somewhat different than the cost differences you see in alcoholic beverages because there isn't the local restriction you see in certain parts of rural Alaska for alcoholic beverages and it's a lighter weight product. It's easier to ship around than bottles of alcohol."

SENATOR STEVENS commented that he'd be the last to defend the use of tobacco, but he questions the tax on electronic cigarettes. He maintained that they are designed to help end an addiction to tobacco.

MR. ALPER offered his understanding that large portions of electronic products contain nicotine and he doesn't think of electronic smoking products as cessation devices. He said a different rate for OTPs could probably be implemented if that's what the committee wishes. He deferred further comment to Dr. Butler.

SENATOR STEVENS restated his understanding that people use electronic cigarettes to try and break the addiction to cigarettes. "If that's the case, why would we discourage people from trying to use that form to stop an addiction?" he asked.

[2:21:58 PM](#)

DR BUTLER agreed that some people have found that e-cigarettes help them stop using combustible cigarettes. He described that as a step in the right direction with a few caveats. One, there is no solid data showing that e-cigarettes have a role in combustible tobacco cessation and there is no FDA approved mechanism for nicotine replacement therapy. Also, a recurring observation is that the greatest impact of increasing tax on tobacco is the decreased uptake among youth. As states increase tobacco tax there is a decreased uptake on youth. However, it is concerning that about 18 percent of Alaska youth report having used e-cigarettes in the last month. He also discussed a study that suggests that there may be a role for taxation as a way to reduce the uptake of e-cigarettes among youth.

SENATOR STEVENS asked if he expects the FDA to do further studies on e-cigarettes.

DR, BUTTLER opined that the issue will be whether any of the manufacturers choose to file with the FDA for that approval.

CHAIR COSTELLO asked Dr. Butler to address the point that the tax bill won't achieve its intended goal if the increased tax

results in fewer users. "Can we expect that that 18 percent will stop purchasing?" she asked.

DR. BUTLER replied the data on e-cigarettes is limited but for cigarettes there is a linear correlation between increasing taxes and decreasing use. The decrease in uptake by youths is even more pronounced.

CHAIR COSTELLO recalled a bill about 20 years ago that intended to decrease youth smoking by increasing the cost of a single cigarette.

[2:26:57 PM](#)

MR. ALPER pointed out that an FDA approved tobacco cessation product would be exempted from the tobacco tax.

SENATOR STEVENS asked if e-cigarettes currently are not taxed.

MR. ALPER confirmed they aren't taxed, but the expanded definition of "other tobacco products" brings e-cigarettes under that tax structure.

SENATOR STEVENS requested he consider carving out a lower tax for e-cigarettes.

MR. ALPER agreed and noted that the administration has revised language for the definition of e-cigarettes for the committee to consider. It clarifies that the product itself is taxed, not the batteries and chargers.

[2:29:17 PM](#)

CHAIR COSTELLO asked if the driving principle of the Governor's Sustainable Alaska Plan is to touch as many Alaskans as possible and how the tobacco tax increase meets that goal.

MR. ALPER said fairness was an overriding principle, trying to spread the impact among all Alaskans. The estimated revenue is \$29 million, but if half the smokers quit it might be revenue neutral.

CHAIR COSTELLO asked him to provide that information to the committee.

MR. ALPER said he'd try but he wasn't sure about its availability.

CHAIR COSTELLO asked him to discuss the long-term impact that a tax would have on the economy weighed against the expected revenue.

MR. ALPER conceded that the consumption taxes are less essential to the bottom line, but they're important in that they show the intent to share the burden among all Alaskans.

CHAIR COSTELLO asked if the administration is thinking more about the budget than the overall economy. "Am I wrong in saying it's the economy, the economy, the economy that we should be focusing on?" she asked.

MR. ALPER agreed it's important to consider the impact on the overall economy, but it's also important to consider the danger in running unsustainable budget deficits. He recognized that efficiencies could be gained by reducing the size of government, but a too dramatic and immediate change could hurt the overall economy.

[2:34:48 PM](#)

SENATOR MEYER offered his belief that the more money kept in the private sector the better off the economy will be. He also questioned why a sales tax isn't part of the Governor's tax proposals because that seems to be the fairest way to have everyone pay.

MR. ALPER pointed out that a sales tax is inherently more regressive than an income tax, and doesn't account for regional price differences. The Governor also felt there would be uneven impacts in communities that already have a sales tax.

[2:38:16 PM](#)

SENATOR MEYER asked if he would favor a sales tax if it was introduced.

MR. ALPER replied it would be given the same consideration as any other revenue matter.

MR. SPANOS, responding to further questions, told the committee that the Stamp Act was passed in 2004 and the cigarette tax was increased to 8 cents per cigarette or \$1.60 a pack at that time.

[2:38:45 PM](#)

SENATOR MEYER asked how much the proposed tax would increase a \$1.00 cigar or a can of snuff.

MR. ALPER said other tobacco products are taxed as a percentage of the wholesale value so it's difficult to figure out the tax on one cigar, but roughly 43 cents of the \$1.00 price is the excise tax under current law.

SENATOR MEYER commented that he doesn't know where Alaska stands relative to other states in terms of cigar and snuff consumption but he looks at them as nicotine products.

MR. SPANOS said the Federation of Tax Administrators publishes a report showing other tobacco product taxes for each state; it ranges from 25 percent to 100 percent of the wholesale price and others tax it by the ounce.

SENATOR MEYER requested a report to show how Alaska compares to other states.

[2:42:40 PM](#)

CHAIR COSTELLO asked for visuals for both alcohol and tobacco showing the current cost of a variety of products in both urban and rural areas throughout the state and how these tax proposal would affect those prices.

SENATOR MEYER stressed the importance of treating Alaskans fairly and then asked if marijuana is taxed differently.

MR. SPANOS confirmed that marijuana is taxed under separate statutes. He clarified an earlier response saying the tobacco taxes increased in 2004 and stepped up in 2005-2007 to arrive at \$2.00 per pack.

CHAIR COSTELLO asked Mr. Alper if he could say that the administration is for, against or neutral on SB 131 and SB 133.

MR. ALPER replied the administration supports all the Governor's bills. He related that there was an internal conversation of a need for a statewide, broadly applicable tax and the Governor made the final decision to introduce an income tax rather than a sales tax.

[2:45:37 PM](#)

CHAIR COSTELLO opened public testimony on SB 131 and SB 133.

[2:46:26 PM](#)

CHRYSTAL SCHOENROCK, representing herself, said she owns Forelands Bar in Nikiski and is a state CHARR member. She described the tax on cigarettes as outrageous and sure to hurt

her business. The alcohol tax will impact her about the same. Her business is already hurting and it's bound to get worse. She asked the committee to take into consideration "that I think this is just bunk."

[2:47:57 PM](#)

JOEL KADARAUCH said he represents the ODOM Corporation and the Alaska Beer, Wine and Spirits Wholesalers Association. He pointed out that over 50 percent of the 100 small brewers listed on the DOR website are out of state, that the dime a drink increase is misleading, and that Alaska already has among the highest alcohol tax in the nation. Should SB 131 become law, the taxes would be 7 times the national average for beer, 6 times the national average for wine and over 5.5 times the national average for spirits. He stressed that the proposal is a broad brush approach to increasing selective taxes that fails to recognize the existing burden that is disproportionately onerous and inequitable. Furthermore, only half of the estimated \$40 million increase in revenue will be deposited to the unrestricted general fund, which will provide an insignificant monetary contribution to the overall deficit.

[2:52:13 PM](#)

RYAN MAKINSTER, Brewers Guild of Alaska, Anchorage, Alaska, testified in opposition to SB 131. He provided preliminary, draft numbers from a study of the economic impact of the legislation. In 2015, the alcohol industry provided about 1,700 direct and indirect jobs and a payroll that expanded to about \$78 million. The industry was also directly and indirectly responsible for fees and taxes totaling approximately \$34.5 million. In-state spending for things like product needs and property development and construction totaled about \$71 million.

Responding to an earlier question, he reported that there are 25 breweries in the state; an additional five or six are in the planning stage and one is waiting for an occupancy permit. He explained that all breweries start small and their growth is generally exponential. "The next step takes bigger equipment and bigger space. Subsequently, more employees to run tasting rooms and eventually retail and a few of them, out-of-state distribution." He cited examples throughout the state.

[2:56:31 PM](#)

DALE FOX, President and CEO, Alaska CHARR (Alaska Cabaret, Hotel, Restaurant and Retailers Association), stated that his organization is obviously opposed to SB 131. He pointed out that Alaskans are generally the least taxed in the nation, but the

alcohol industry is the most taxed in the nation. When the committee was told that doubling the tax on distilled spirits would bring it to \$25.60 per gallon, there was no mention of what other states are charging. The average is \$4.45 per gallon with many states much lower than that. The tax on wine would be \$5.00 per gallon when the national average is 83 cents. The tax on beer would be \$2.14 per gallon when the national average 28 cents. Even the small brewers in Alaska are paying above the national average.

MR. FOX told the committee that an unintended consequence of the proposed alcohol tax is that it will encourage Alaskans to buy off the Internet, either offshore and pay no tax or from another state and pay a much lower tax. The savings will more than pay the FedEx bill. This will cause some Alaskans to go out of business.

[2:59:48 PM](#)

SENATOR GIESSEL offered her understanding that when someone that lives in a state with a state sales tax buys something online, the vendor has to charge them the equivalent tax. She asked if that was correct.

MR. SPANOS clarified that a retailer that sells to someone in a state that does not have a sales tax does not have to charge the tax, but their records have to show that the product was shipped out of the state.

[3:01:01 PM](#)

JACK MANNING, representing himself, said he's the owner of Duck Creek Market in Juneau and president of the local CHARR. He told the committee that consumers of alcohol will ultimately pay the tax and it might be more than double, because every merchant has their own markup. He remarked that everyone needs to pull together to help with the fiscal situation, "except if you're a drinker of alcohol you've got to pull a little harder." He agreed with previous testimony that if SB 131 were to become law, the effect will turn sales to the Internet. One of the issues with online sales is the state not only loses the tax, it also loses control over who can purchase alcohol. "Anybody who can type on a keyboard can order product."

[3:03:29 PM](#)

JOHN JACKOVICH, member, Alaska CHARR, Fairbanks, Alaska, testified in opposition to SB 133. He discussed the taxes and fees that he pays and passes along to the consumer. These include the state alcohol tax and the fees levied by the

insurance company based on prior year sales. He tries to keep the costs to his customers as low as possible, which is why he is opposed to this proposed tax increase. Quite simply, it's going to be passed along to the customers.

[3:06:43 PM](#)

CHRYSTAL SCHOENROCK, representing herself, said she owns Forelands Bar in Nikiski and is a state CHARR member. She is opposed to SB 131 because it will hurt businesses. She's already had to lay off some of her employees and cut the hours of others. This will add to the existing burden and cause small businesses to close. She favors a sales tax and legalized gambling as alternative revenue sources.

[3:09:06 PM](#)

BILL FRY, Bear Creek Winery, Homer, Alaska, testified that SB 133 is excessive. The first year he sold 600 gallons of wine and 12 years later he sold 18,000 gallons, which contributed \$45,000 in excise taxes. Last year he and his wife spent \$55,000 to purchase over 37,000 pounds of fruit and berries from Alaskan pickers. This is money that stays in the state. He requested an amendment to expand the small brewery exemption to Alaska wineries and possibly distilleries or remove it altogether.

[3:11:32 PM](#)

LARRY HACKENMILLER, Secretary, Interior CHARR, Fairbanks, Alaska, testified in opposition to SB 131. He emphasized that there is no need to double the alcohol excise tax that brings in about \$40 million per year. Instead, repeal the statute that allocates 50 percent of the alcohol excise tax to the Treatment and Prevention Fund and deposit the entire \$40 million to the unrestricted general fund. This is the same amount that doubling the tax would bring.

[3:16:50 PM](#)

CHAIR COSTELLO stated that public testimony on SB 131 and SB 133 will continue at 6:00 pm tonight.

[3:17:17 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:17 p.m.