

-ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE

February 23, 2016

1:34 p.m.

MEMBERS PRESENT

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

COMMITTEE CALENDAR

SENATE BILL NO. 72

"An Act relating to caregivers of patients after release or departure from a hospital; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 165

"An Act relating to the presence of minors in the licensed premises of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to the offense of minor consuming; relating to revocation of a driver's license for a minor consuming offense; relating to the effect of the revocation of a driver's license for a minor consuming offense on a motor vehicle liability insurance policy; and amending Rule 17, Alaska Rules of Minor Offense Procedure."

- HEARD AND HELD

SENATE BILL NO. 134

"An Act relating to the taxation of income of individuals; repealing tax credits applied against the tax on individuals under the Alaska Net Income Tax Act; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 72

SHORT TITLE: DESIGNATED CAREGIVERS FOR PATIENTS

SPONSOR(s): SENATOR(s) GIESSEL

03/11/15 (S) READ THE FIRST TIME - REFERRALS
03/11/15 (S) HSS, L&C
04/10/15 (S) HSS AT 1:30 PM BUTROVICH 205
04/10/15 (S) Heard & Held
04/10/15 (S) MINUTE (HSS)
02/01/16 (S) HSS AT 1:30 PM BUTROVICH 205
02/01/16 (S) Moved CSSB 72(HSS) Out of Committee
02/01/16 (S) MINUTE (HSS)
02/03/16 (S) HSS RPT CS 2DP 2NR NEW TITLE
02/03/16 (S) DP: GIESSEL, STOLTZE
02/03/16 (S) NR: STEDMAN, ELLIS
02/23/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 165

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

SPONSOR(s): SENATOR(s) MICCICHE

02/01/16 (S) READ THE FIRST TIME - REFERRALS
02/01/16 (S) L&C, JUD
02/11/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/11/16 (S) Scheduled but Not Heard
02/23/16 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

EMMIE VAN WYHN, Student Intern
Senator Cathy Giessel
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented information relating to SB 72 on behalf of the sponsor.

DEB ETHERIDGE, Deputy Director
Division of Senior and Disabilities Services
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified that the administration supports SB 72.

AMANDA MCCORMICK, representing herself
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 72.

KEN HELANDER, Advocacy Director
AARP Alaska

POSITION STATEMENT: Testified in strong support of SB 72.

ED ZASTROW, representing himself
Ketchikan, Alaska

POSITION STATEMENT: Testified in strong support of SB 72.

JEANNIE MONK
Alaska State Hospital and Nursing Home Association
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 72.

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 165.

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

POSITION STATEMENT: Presented SB 165 on behalf of the sponsor.

CYNTHIA FRANKLIN, Executive Director
Alcoholic Beverage Control (ABC) Board
Anchorage, Alaska

POSITION STATEMENT: Provided an overview of SB 165.

NANCY MEADE, General Counsel
Administrative Staff
Office of the Administrative Director
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 165.

JACK MANNING, owner/operator
Duck Creek Market and
President Juneau CHARR
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 165.

LEEANN THOMAS, owner
Triangle Club Bar
Juneau, Alaska

POSITION STATEMENT: Testified in opposition to SB 165.

ELIZABETH RIPLEY, Executive Director
Mat-Su Health Foundation
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 165.

KATE BURKHART, Executive Director
Advisory Board on Alcoholism and Drug Abuse
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 165.

DALE FOX, President and CEO
Alaska CHARR
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 165.

DARWIN BIWER, Chair
Alaska CHARR
Anchorage Alaska

POSITION STATEMENT: Testified in opposition to SB 165.

BOB WINN representing himself
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to SB 165.

LARRY HACKENMILLER
Interior CHARR
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to SB 165.

GINNY ESPENSHADE, Executive Director
Kenai Peninsula Youth Court
Kenai, Alaska

POSITION STATEMENT: Testified that SB 165 is a great start toward reforming the minor consuming statutes.

TIFFANY HALL, Executive Director
Recover Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 165.

ANNA BRAWLEY
Agnew Beck Consulting
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 165.

CARMEN GUTIEREZ, Counsel

Alaska Mental Health Trust Authority
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 165.

ACTION NARRATIVE

1:34:06 PM

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 1:34 p.m. Present at the call to order were Senators Ellis, Meyer, Giessel, and Chair Costello. Senator Stevens joined the committee soon thereafter and Senator Micciche arrived during the course of the meeting.

SB 72-DESIGNATED CAREGIVERS FOR PATIENTS

1:35:13 PM

CHAIR COSTELLO announced the consideration of SB 72. She noted this is the first hearing. [CSSB 72(HSS) is before the committee.]

1:35:18 PM

SENATOR CATHY GIESSEL, Alaska State Legislature, sponsor of SB 72, stated that this legislation is otherwise referred to as the Caregiver, Advise, Record and Enable (CARE) Act. It is about enabling, educating, and preparing caregivers to take care of family members when they leave the hospital. The goal of the legislation is to reduce healthcare costs and improve the health of Alaska's citizens. She reported that the U.S. has the highest healthcare costs in the world and Alaska has the highest healthcare costs in the nation.

She stated that SB 72 seeks to improve post-discharge health outcomes by improving coordination with designated caregivers, improving the training in aftercare, enabling older Alaskans to stay safely in their homes longer, and reduce preventable and costly hospital readmissions.

SENATOR GIESSEL highlighted that at any given time, about 128,000 Alaskans are providing some type of caregiving service and support to a loved-one, friend or neighbor. Helping caregivers do this job more effectively is estimated to save over \$1 billion. Lay caregivers are increasingly being asked to perform complex nursing and medical tasks such as dispensing medications, administering injections, and providing wound care. Oftentimes they have had little or no training. She related a personal experience.

SENATOR GIESSEL explained that SB 72 is designed to help individuals learn to provide appropriate care so a patient can go home from the hospital earlier and not be readmitted. She noted the maps in the packet and related that when the bill was introduced last year there were only five states that had approved the CARE Act, whereas today an additional 14 states have passed similar legislation.

She deferred further comment to her Intern, Emmie Van Wyhn.

[1:38:34 PM](#)

EMMIE VAN WYHN, Student Intern, Senator Cathy Giessel, directed attention to the U.S. map in the packets to highlight the significant number of states that have passed designated caregiver legislation in the past year and many more that are considering similar legislation. She listed the four things that SB 72 will do: 1) ensure patients are given the opportunity to name a caregiver to provide aftercare following hospital discharge; 2) ensure the designated caregiver is notified of the patient's discharge or transfer to another facility as soon as practicable; 3) the hospital shall consult with the designated caregiver and offer training for after medical and nursing tasks prior to discharge; and 4) ensure that hospitals adopt and maintain written discharge policies.

[1:39:52 PM](#)

SENATOR GIESSEL informed the committee that since the bill was introduced last year, the Alaska Hospital and Nursing Home Association, AARP Alaska, and her office have collaborated to improve the bill. To this end, a committee substitute (CS) is forthcoming.

CHAIR COSTELLO clarified for the listening public that the committee would work with the sponsor to introduce the CS at a future meeting.

SENATOR MEYER questioned which version was before the committee.

[1:41:09 PM](#)

At ease

[1:42:45 PM](#)

CHAIR COSTELLO reconvened the hearing and welcomed Ms. Etheridge to provide comment and the administration's perspective of the legislation.

[1:43:07 PM](#)

DEB ETHERIDGE, Deputy Director, Division of Senior and Disabilities Services, testified on SB 72 stating that the department views better post-hospital care in a patient's home as a positive.

CHAIR COSTELLO asked if the administration supports the legislation.

MS. ETHERIDGE answered yes.

CHAIR COSTELLO asked if the legislation would change the questions the hospital asks a patient prior to discharge, because hospitals generally only ask patients if they have family to provide aftercare.

MS. ETHERIDGE replied SB 72 allows a patient to designate a person who may or may not be a family member.

SENATOR MEYER asked how anyone would know whether or not the caregiver was providing the appropriate care.

MS. ETHERIDGE answered that the bill requires the hospital to do education and training of the designated caregiver.

SENATOR MEYER asked if the legislation allows the patient to designate the caregiver.

MS. ETHERIDGE confirmed that was correct and added that the patient also can choose not to designate a caregiver.

SENATOR MEYER asked if the hospital is responsible for the quality of care when the patient has designated the caregiver.

MS. ETHERIDGE offered her understanding that the bill clarifies that the new sections in AS 18.20 may not be construed to create a right of action against the hospital.

[1:46:06 PM](#)

SENATOR STEVENS joined the committee.

CHAIR COSTELLO asked how this would affect a power of attorney.

MS. ETHERIDGE explained that someone with a power of attorney is not required to provide actual care and doesn't necessarily have medical authority for that person.

[1:46:37 PM](#)

CHAIR COSTELLO opened public testimony.

[1:46:54 PM](#)

AMANDA MCCORMICK, representing herself, Anchorage, Alaska, testified in support of SB 72. She shared a story about a tenant with a mental disability who entered the hospital for knee replacement surgery. The attending physician assured Ms. McCormick that she would be notified when Nora was ready to be released from the hospital so she could pick her up, but that didn't happen. Instead, Nora was put on a city bus to go home with her husband who also has a mental disability. Nora died that night and it was completely unnecessary. She said she is testifying as a voice for Nora and others in similar situations.

[1:50:13 PM](#)

KEN HELANDER, Advocacy Director, AARP Alaska, testified in strong support of SB 72. He stated that family caregivers have traditionally provided assistance with bathing, dressing, eating, and household tasks. These tasks remain critical to the wellbeing of care recipients, but the role of family caregiver has expanded rapidly to include medical and nursing tasks.

The AARP Public Policy Institute and the United Hospital Fund in 2012 documented this major shift in a national survey of 1,677 caregivers that asked what medical and nursing tasks caregivers were performing. Additionally, a report titled Home Alone: Family Caregivers Providing Complex Chronic Care highlighted that 46 percent performed medical and nursing tasks for persons with multiple chronic, physical and cognitive conditions; 78 percent managed medications, including administering intravenous fluids and injections; more than 33 percent wanted more training in wound care; most felt they were helping their family member avoid an institution; and most reported they received little or no instruction to perform the tasks.

MR. HELANDER described an AARP survey of 800 Alaskans age 45 and over that asked about their experiences in caregiving. Among the findings: 56 percent identified themselves as being a current or former caregiver and 6 in 10 reported helping with medication management tasks; 50 percent of registered voters said it is likely they will provide care for a friend or family member in the future. He said the 128,000 unpaid caregivers in Alaska are the foundation of the state's care system, providing care valued at over \$1.1 billion annually. Supporting these caregivers keeps people out of more expensive levels of care and provides independence, choice, and dignity that the system is based on.

Many of these caregivers are thrust into this role unexpectedly and if they don't have the needed tools to provide appropriate care, the patient may be re-hospitalized.

SB 72 helps this situation, he said. Its goal is to involve family caregivers as part of the care team. The bill requires all hospitals in Alaska to adopt policies to ensure they identify and record who the family caregiver is, if one is designated; notify the caregiver that a patient is being discharged; and demonstrate the care they are expected to provide at home.

MR. HELANDER stated that the collaboration referenced earlier led to the mutually agreeable language in the [forthcoming] amended bill. He pointed out that while many hospitals are already doing what the bill provides, this will ensure that all hospitals are on the same page involving family caregivers as part of the care team. This is particularly important in the current fiscal climate, he said.

[1:56:55 PM](#)

ED ZASTROW, representing himself, Ketchikan, testified in strong support of SB 72. He shared a personal story of his experience with a successful hospital discharge in Ketchikan. His wife was schooled in how to care for him and they were assisted in how to prepare their home to accommodate his needs. SB 72 addresses this type of program and he finds it difficult to understand why any hospital wouldn't make these accommodations. He highlighted that Ketchikan General Hospital is currently rewriting the policies for their program and is very pleased with their caregiver training program.

[1:59:00 PM](#)

JEANNIE MONK, Alaska State Hospital and Nursing Home Association, Juneau, Alaska, confirmed that ASHNA has been collaborating with the sponsor and AARP Alaska and supports the forthcoming CS. She stated that a transition from the hospital to home is stressful, but the best-case scenario is when a willing caregiver is available to provide aftercare. She said ASHNA supports family caregivers and wants to give them the confidence and skills needed to handle the aftercare.

She related that Alaska hospitals are working on strategies to reduce re-admissions, provide coordinated care services and planning across a continuum, and meet rigorous Medicare and Medicaid conditions of participation. As part of every patient's discharge assessment, the hospital works to determine who will

provide ongoing care, include that individual in the transition planning, and provide them with information about medications and follow-up care. SB 72 builds on and strengthens the existing discharge planning processes that are in place at all hospitals; ASHNA, therefore, supports the legislation.

[2:01:30 PM](#)

CHAIR COSTELLO related a personal story about a loved one who entered the hospital and was asked if she had family in Anchorage to help with aftercare. This person answered no, which was technically correct but didn't take into account the life-long family-like relationship with Senator Costello's family.

She questioned how hospitals will educate their staff to look beyond the traditional family caregiver when it's appropriate. "Essentially, we were cut out of the process and they were ready to assume she had nobody in Alaska when, in fact, she had my family," Senator Costello said.

MS. MONK offered her understanding that each hospital will integrate this into their discharge policies and will ask if the patient wants to designate a caregiver. If so, the patient will sign an agreement so the hospital can release information and the hospital will fully involve that designated caregiver.

SENATOR STEVENS asked who will pay for the training.

MS. MONK replied hospitals already work with family caregivers and provide training that is relevant to the patient's needs at discharge. This is simply integrating into their discharge policies the process of allowing a patient to designate a caregiver. She clarified, "This bill will not address the full range of caregiver needs."

[2:05:19 PM](#)

SENATOR MEYER asked who pays for the caregivers.

MS. MONK clarified that these are all unpaid caregivers.

SENATOR MEYER asked if the hospital provides someone if a patient doesn't have a family caregiver.

MS. MONK clarified that this legislation does not speak to the hospital providing any caregivers. It speaks to the patient designating someone who is willing to provide post-hospital care. If a patient does not have someone to care for them at home, the hospital social services department works out an

appropriate transition plan. This is a large problem, but this legislation does not address that aspect of post-release care, she said.

[2:06:32 PM](#)

CHAIR COSTELLO closed public testimony on SB 72 and held the bill in committee.

[2:06:42 PM](#)

At ease

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

[2:08:31 PM](#)

CHAIR COSTELLO reconvened the meeting and announced the consideration of SB 165.

[2:09:26 PM](#)

CHUCK KOPP, Staff, Senator Peter Micciche, Alaska State Legislature, presented SB 165 on behalf of the sponsor, speaking to the following sponsor statement:

Senate Bill 165 is the product of an ongoing comprehensive, multiyear modernization process for Title 4, Alaska's statutes that govern the regulation and control of alcoholic beverages in the state.

Title 4 is largely unchanged since enactment in 1980. It is widely recognized to be outdated, and ineffectual in carrying out the intent of the statutes, which directly impact Alaska residents, public safety, public health, and the alcoholic beverage industry.

Following a 3-year review and update by stakeholders, SB 99 was introduced in April 2015, a large body of work spanning nearly 100 pages. The complexity of the bill and the need for additional stakeholder work to gain consensus on several licensing issues, prompted the ABC Board Title 4 Review Steering Committee in December 2015 to recommend a new, two-track process for Title 4 rewrite - 1) streamline elements of SB 99 into SB 165 that focuses on the areas where broad consensus currently exists, particularly those items that impact youth; and, 2) hold the remaining provisions for further refinement and introduction as a second package in 2017.

SB 165 focuses on a discrete set of consensus recommendations which includes ABC Board member Composition and Qualifications (04.16.020); consideration of Executive Director experience and background when filling vacant seats; clarifying that minors are allowed to play and work on golf courses that serve alcoholic beverages; establish the offenses of Minor on Licensed Premises (04.16.049) and Minors in Possession or Consuming (04.16.050) to be violations; provides that such violations may not be published on CourtView, nor be cause for a driver's license cancellation or revocation; and encourages alcohol education or treatment upon conviction of minor consuming and possession offenses.

He noted the letters of support in the packets.

[2:10:12 PM](#)

CHAIR COSTELLO welcomed Senator Micciche to the hearing.

[2:10:59 PM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, sponsor of SB 165, thanked the committee for hearing the bill. He described the measure as important to all Alaskans and youth in particular.

[2:11:39 PM](#)

At ease

[2:11:59 PM](#)

CHAIR COSTELLO reconvened the meeting and welcomed Cynthia Franklin.

[2:12:21 PM](#)

CYNTHIA FRANKLIN, Executive Director, Alcoholic Beverage Control (ABC) Board, summarized the Title 4 review process and provided an overview of SB 165. She explained that SB 165 is part of the Title 4 rewrite that particularly works on increasing swiftness, proportionality and consistency of penalties; increasing local law enforcement of Title 4; and increasing licensee accountability for Title 4 violations. The provisions in SB 165 reflect many hours of work by the Underage Drinking Subcommittee and the Role of the Board Subcommittee, she said.

[2:14:34 PM](#)

MR. KOPP explained that over the Interim the steering committee worked with the Alaska CHARR Government Affairs Committee to flag language in the comprehensive SB 99 that would benefit from refinement. In December 2015 the steering committee recommended placing certain elements from SB 99 into a new bill for implementation in 2016. He maintained that the elements in SB 165 enjoy a broad consensus of support. He emphasized that the steering committee would continue to engage with stakeholders and the five subcommittees to refine the comprehensive package so a new bill could be introduced in 2017.

MR. KOPP and Ms. Franklin discussed the consensus elements in SB 165: 1) ABC Board composition and qualifications; 2) minor on licensed premises, which would be reduced to a violation; and 3) minor consuming alcohol, which would be reduced to a pure violation.

[2:17:04 PM](#)

MS. FRANKLIN described the work on the board composition as a true compromise, explaining that the revised composition is 2 industry members, 1 public health member, 1 public safety member, and 1 rural public member. An additional compromise was to factor in the director's expertise and background when filling vacant seats in order to maintain a balanced perspective. Thus, if the director has a background in any of the designated seats, that seat will be filled by a public member. She noted that the director is a non-voting member but he/she has quite a bit of influence on the board and its work.

She said the work on underage drinking and access to alcohol was done by the Underage Drinking Subcommittee, relying on data from the Court System. One aspect in the bill concerns minor on licensed premises and another concerns minor consuming or possessing alcohol. The idea is to restore minor consuming to a true violation.

[2:20:21 PM](#)

CHAIR COSTELLO asked her to describe the problem this provision seeks to address.

MS. FRANKLIN explained that the existing AS 04.16.050 says a first offense is a violation, but the Court of Appeals has said it looks like a crime because it contains mandatory provisions that aren't normally associated with a violation. The mandatory court appearances and requirements attach to all levels of minor consuming and have led to a substantial number of arrests of minors, which implicates federal status offense policies.

She directed attention to the current penalty scheme for minors consuming alcohol and pointed out that the federal government has warned states not to put young people in jail for something that is legal except for their age. She noted that Court System data indicates that the treatment of MCA offenses vary widely throughout the state. Additionally, officers have said that they often chose not to write a ticket at all because of the escalating penalties of the offense. This, too, leads to inconsistency among jurisdictions.

By contrast, SB 165 provides the same penalty for every MCA violation. There is a \$500 fine that, if unpaid, could be deducted from the permanent fund dividend (PFD). The fine can be reduced to \$50 by voluntary participation in alcohol treatment or education or any community diversion activity that's offered in the community or statewide. Also, because the offense is a true violation, a young person will never be in jail for a status offense.

[2:24:37 PM](#)

MR. KOPP added that minor consuming alcohol offenses are true violations and will never appear on the minor's CourtView record. He clarified that they are not driving offenses.

[2:25:51 PM](#)

MR. KOPP began to read through the sectional analysis for SB 165.

Section 1 - Repeals and reenacts AS 04.06.020, relating to the appointment, reappointment and qualifications of members of the Alcoholic Beverage Control Board; Governor consideration of executive director experience when making board appointments; and establishing definitions.

[2:28:00 PM](#)

CHAIR COSTELLO asked if the bill could upend the traditional process where executive directors work at the discretion of the board.

MR. KOPP replied the executive director serves at the pleasure of the board and can be removed for cause by the governor.

CHAIR COSTELLO asked if the executive director has a vote.

MR. KOPP replied the executive director of the ABC Board does not have a vote, but he/she has significant influence over the board. The consensus was that the healthy tension on the board is balanced if none of the sectors are weighted. He didn't know how that would apply to other boards.

MS. FRANKLIN added that nothing in the bill is intended to change the structure of the director's appointment or how he/she serves the board. The only aspect of the bill that is unique is the idea of considering the director's background in the governor appointments.

CHAIR COSTELLO recalled the pushback when the board was moved from public safety to commerce and admitted to having some concern about politicizing the personality of the executive director.

MR. KOPP continued the sectional analysis of SB 165.

Section 2 – In AS 04.06.030, Terms of office; chair changes "chairman" to "chair".

Section 3 – In AS 04.06.050, Meetings - changes "chairman" to "chair".

Section 4 – Amends AS 04.16.049(a), relating to access by minors to licensed premises; adds a reference to 04.11.110 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 current drafting style, and; identifies circumstances under which minors may be employed on licensed premises.

[2:35:52 PM](#)

Section 5 – Amends AS 04.16.049(b), changing "age of 21 years" to "21 years of age" to conform to current drafting style.

Section 6 – Amends AS 04.16.049(c), allowing juveniles, 16 & 17 years of age, to be employed on golf course licensed premises as long as they have written consent of guardian or parent, and an exemption granted by the Department of Labor.

Section 7 – Amends AS 04.16.049(d), to allow minors, 18–20 years of age, to be employed within the licensed premises of a golf course as long as they do not sell, serve, deliver, or dispense alcoholic beverages.

[2:36:50 PM](#)

Section 8 – Adds a new subsection (g) to AS 04.16.049 to permit access by minors to golf courses for the purpose of playing golf. Adds new subsections making unauthorized presence by a minor on licensed premises a violation, punishable by a fine of \$500, which must be charged and filed with the court as a separate case. The fine may be reduced by a court to \$50 if the minor supplies proof of completion of an alcohol safety action program.

MR. KOPP noted that youth courts and community diversion panels were inadvertently omitted.

Section 9 – Repeals and reenacts AS 04. 16.050 to make minor consuming a violation, punishable by a fine of \$500, which must be charged and filed with the court as a separate case. The fine may be reduced by a court to \$50 if the minor supplies proof of completion of an alcohol safety action program.

[2:40:48 PM](#)

Section 10 – Amends AS 04.16.180(d) so that the court may not require a person under 21 years of age convicted of a violation under this chapter to pay for and enroll in a juvenile alcohol safety action program.

MR. KOPP informed the committee that it became clear just yesterday that the language in current law [AS 04.16.180(d)] does not need to be amended. Thus, Section 10 does not need to be in the bill.

[2:41:55 PM](#)

SENATOR GIESSEL asked if the intention was to use the term "a crime" on page 5, line 30.

[2:42:44 PM](#)

At ease

[2:43:06 PM](#)

CHAIR COSTELLO reconvened the meeting and asked Ms. Meade to address the question.

[2:43:12 PM](#)

NANCY MEADE, General Counsel, Administrative Staff, Office of the Administrative Director, Alaska Court System, Anchorage, Alaska, agreed with Mr. Kopp that Section 10 does not need to be in SB 165. This statute [AS 04.16.180(d)] makes minor consuming alcohol an offense, not a crime. If the bill were to pass with the language on page 5, lines 30 and 31, minor consuming alcohol would be excluded. "I think Mr. Kopp had determined that leaving the bill as is does allow the court to, in appropriate circumstances, have some discretion to refer some juveniles or minors to the programs that are in that section of the bill," she said.

SENATOR GIESSEL asked if Section 10 will stay or be removed.

MS. MEADE said she believes that Mr. Kopp will remove all of Section 10.

[2:44:53 PM](#)

MR. KOPP continued the sectional analysis of SB 165.

Section 11 – Modifies the required language for warning signs on licensed or designated premises in AS 04.21065(b).

Section 12 – Adds a new provision in 04.21.078 barring the court system from publishing on a publicly available website the record of a violation of AS 04.16.049 or 04.16.050 if the violation was charged separately and was not joined with another minor offense or criminal charge.

Section 13 – Amends AS 21.36.210(a) Limits on cancellation, to remove a reference to AS 21.96.027 due to repeal and reenactment of AS 04.16.050.

Section 14 – Amends AS 28.15.057(a) Restrictions on driver's license issued to person under 18, to reflect the repeal and reenactment of AS 04.16.050.

Section 15 – Amends AS 28.15.191(a) Court and parole board reports to department removes court requirement to forward to DMV a record of a minor consuming alcohol violation conviction within five working days.

Section 16 – Amends AS 28.15.211(g) removing reference to DMV not issuing or reissuing a driver's license to a person whose license was revoked for an offense under 04.16.050.

Section 17 – Amends the uncodified law of the State of Alaska, adding a new section describing a Direct Court Rule Amendment to Rule 17(a), Alaska Rules of Minor Offense Procedure.

Section 18 – Amends the uncodified law of the State of Alaska, adding a new subsection (g) to Rule 17, Alaska Rules of Minor Offense Procedure, providing that a prosecutor may not join a minor offense for a violation of AS04.16.049 or AS 04.16.050 with a related criminal offense.

Section 19 – Repeals various sections that have to do with denial, cancelation or non-renewal of insurance for minor consuming violations, court revocation of a driver's license for minor consuming alcohol, and Health & Social Services agreements under Delinquent Minor rules to revoke a driver's license for minor consuming alcohol offenses.

Section 20 – Applicability provisions.

Section 21 – Transition provisions relating to membership on the ABC Board.

[2:47:45 PM](#)

SENATOR MEYER asked if the penalty for a second or third minor in possession offense would be a \$500 fine.

MR. KOPP confirmed those would be violations and the penalty would be a \$500 fine. Responding to a further question, he agreed that the fine could be reduced to \$50 if the youth takes a court approved alcohol safety action program or youth court. He noted that the data shows that 70 percent of youths charged with minor consuming do not commit a second offense.

SENATOR MEYER asked Ms. Franklin if the marijuana possession laws will mirror the alcohol possession laws for underage persons.

MS. FRANKLIN replied the laws are totally different at this point; legislative reconciliation work is needed to bring marijuana minor offenses in line with AS 04.16.050.

[2:50:26 PM](#)

SENATOR STEVENS questioned the zero fiscal note when Section 11 calls for new signage.

MS. FRANKLIN explained that creating and supplying correct signs is a fixed expense of her office.

[2:51:33 PM](#)

CHAIR COSTELLO opened public testimony on SB 165.

[2:52:08 PM](#)

JACK MANNING, owner/operator, Duck Creek Market and President Juneau CHARR, stated that many in the industry do not support SB 165 because of the change in the makeup of the board. He said a lot of work is still going into SB 99 and pulling the board aspect out is viewed as a piecemeal approach and a broken promise based on what the steering committee said earlier. He said all other state boards have a majority of industry membership but, as currently drafted, there could be just one industry member on the ABC Board.

[2:54:05 PM](#)

LEEANN THOMAS, owner, Triangle Club Bar, Juneau, Alaska, testified in opposition to SB 165. She said that for two years she actively participated in the Title 4 rewrite but she is totally against pulling elements from that comprehensive legislation and placing it in a separate bill. She emphasized the advantage of bringing Title 4 forward in one piece to ensure that it works together. She pointed out that it doesn't work now because of the piecemeal approach. In particular, she objected to the composition of the board. She said two industry seats is insufficient, and that number could potentially drop to one. She maintained that the non-industry members would not be knowledgeable enough to make decisions about licenses.

SENATOR GIESSEL asked what the composition of the ABC Board was in the comprehensive SB 99.

MS. THOMAS said this composition was suggested, but the alcohol industry didn't support it so there was ongoing work to find a compromise. The reason she doesn't support SB 165 is that it pulls elements out of the comprehensive bill before consensus was reached. The alcohol industry feels left behind, she said.

SENATOR GIESSEL summarized that there wasn't a consensus on the board makeup in SB 99.

MS. THOMAS said that's correct.

[2:57:40 PM](#)

SENATOR MEYER asked if there is consensus on minor in possession.

MS. THOMAS offered her belief that the industry is "more supportive or that." She added that her personal opinion is that the minors coming on premises provision needs to have teeth, but she supports however the Court System can make it work quickly and efficiently.

[2:59:00 PM](#)

ELIZABETH RIPLEY, Executive Director, Mat-Su Health Foundation, Wasilla, Alaska, testified in support of SB 165. She stated that the foundation is a funding partner of Recover Alaska, which has been very active in the Title 4 rewrite. She offered a differing perspective from the previous testimony maintaining that there was a commitment to make the changes to the composition of the ABC Board and agreement on minor consuming.

She said SB 165 enables swift and uniform enforcement, which sends a very clear message to youth and decreases underage drinking. It provides incentive to attend an alcohol education program and decriminalizes the action. She said the Mat-Su Health Foundation supports the changes to the ABC Board composition. She pointed out that Alaska is the only state that gives industry such a prominent voice on its ABC Board, and insisted that the board instead needs to more fairly represent the interests of all Alaskans. This can be accomplished by designating seats for public safety and public health and ensuring that they clearly outnumber industry seats.

[3:02:17 PM](#)

KATE BURKHART, Executive Director, Advisory Board on Alcoholism and Drug Abuse, Juneau, Alaska, testified in support of SB 165. She stated that the advisory board participated in the Title 4 rewrite process and had staff that worked on the underage drinking workgroup that arrived at the recommendations embodied in SB 165. The bill is data driven and based on evidence, which is the kind of policy that should be made. SB 165 rectifies the problem of inconsistent enforcement of laws and allows implementation of an effective public health strategy to curb

underage drinking. She also stated support for the modification in the ABC Board composition, because it allows for a more diverse conversation about alcohol policy and regulation and aligns with the board that was created for marijuana regulation and control.

Speaking as a director of entities that share staff, she said alignment in authority and representation does promote efficient and effective administration. She noted that was one of the reasons for the decision to share staff between the ABC Board and Marijuana Control Board.

[3:04:44 PM](#)

DALE FOX, President and CEO, Alaska CHARR, testified in opposition to SB 165. He stated that claims of consensus are not true and the bill is not supported by the industry. He related that CHARR and other stakeholders have been involved in the three-year process to rewrite Title 4. Everyone has been promised one comprehensive package and many compromises have been made on all sides. He said CHARR did not support the change in composition of the ABC Board but accepted it because of other valuable industry objectives in the comprehensive bill. However, what's happened is that the top two items of the social service community have been stripped out of [SB 99] and put into SB 165 with no sweeteners for the industry.

He said CHARR does support the minor in possession suggestions and could support the bill if the board composition provision is removed.

[3:08:04 PM](#)

DARWIN BIWER, Chair, Alaska CHARR, Anchorage Alaska, testified in opposition to SB 165. He said this bill isn't needed and without it both issues would be in the comprehensive bill. The reason Title 4 needs so much work is because it's been dealt with on a piecemeal basis.

[3:10:19 PM](#)

BOB WINN representing himself, Anchorage, Alaska, testified in opposition to SB 165. He said he was part of the stakeholder group and the board composition was never brought forward in this format to the entire body. He maintained that the person who is least knowledgeable about alcohol issues would be the swing vote whenever a contentious issue is before the board.

[3:11:44 PM](#)

LARRY HACKENMILLER, Interior CHARR, Fairbanks, Alaska, testified in opposition to SB 165. He agreed with the testimony from other CHARR members that the composition of the ABC Board was never agreed upon. He suggested that all references to the composition of the board should be removed from the bill. He voiced support for the language about minor consuming.

[3:13:51 PM](#)

GINNY ESPENSHADE, Executive Director, Kenai Peninsula Youth Court, stated that SB 165 is a great start towards reforming the minor consuming statutes for three primary reasons: 1) it keeps youth names off CourtView, 2) it does not involve probation, and 3) it allows each community to present youth with as many options as possible to address this issue. She urged the committee not to let the disagreement about the board composition delay the changes to AS 04.16.050.

[3:16:14 PM](#)

TIFFANY HALL, Executive Director, Recover Alaska, testified in support of SB 165. She stated support for the changes in the minor consuming laws because they will help ensure that someone's entire life isn't marred by a childhood mistake. She also stated support for the changes to the composition to the ABC Board. It ensures balanced representation across a variety of sectors that are equally important in alcohol control.

ANNA BRAWLEY, Agnew Beck Consulting, Anchorage, Alaska, introduced herself and reported that her company was on contract first with the Rasmuson Foundation and now Recover Alaska to support the Title 4 rewrite.

CHAIR COSTELLO asked if it's accurate that not all stakeholders had a chance to consider the composition of the ABC Board.

MS. BRAWLEY said a lot of recommendations were brought forth for consideration at the March 2014 meeting of the full stakeholder group. Among those was different options for the board composition. In September 2014 there was a meeting of the steering committee and stakeholders and the recommendations put into SB 99 were put forward. The board composition was part of that.

[3:19:59 PM](#)

CARMEN GUTIEREZ, Counsel, Alaska Mental Health Trust Authority, said she is on contract to provide legal services for the Title 4 rewrite. She said the purpose of her testimony is to provide information regarding CHARR's involvement and their concern

about the composition of the board. She explained that after SB 99 was introduced, CHARR raised concerns with the bill. CHARR provided detailed concerns regarding SB 99 but the composition of the board was not articulated as a concern. Similarly, no issue was raised regarding the rewrite of minor consuming.

[3:22:07 PM](#)

CHAIR COSTELLO asked if she had a comment on the bill before the committee.

MS. GUTIEREZ said the first the steering committee heard about CHARR's concerns regarding the composition of the board was when SB 165 was being drafted. Their concern was that the two issues were pulled from SB 99 and incorporated in SB 165.

[3:23:33 PM](#)

CHAIR COSTELLO closed public testimony on SB 165 and held the bill in committee.

[3:24:08 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:24 p.m.