

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 10, 2015

8:31 a.m.

MEMBERS PRESENT

Senator Bill Stoltze, Chair
Senator John Coghill, Vice Chair
Senator Charlie Huggins
Senator Lesil McGuire
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE CONCURRENT RESOLUTION NO. 6
Proclaiming April 2015 as Sexual Assault Awareness Month.

- MOVED SCR 6 OUT OF COMMITTEE

SENATE BILL NO. 62
"An Act relating to the regulation of marijuana, marijuana testing, marijuana products, and marijuana accessories; relating to the licensing of marijuana retailers, producers, processors, boutique producers, brokers, and home growers; relating to taxation of marijuana; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 42
"An Act providing priority to personal use fisheries when fishing restrictions are implemented to achieve a management goal."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SCR 6
SHORT TITLE: SEXUAL ASSAULT AWARENESS MONTH: APRIL 2015
SPONSOR(S): SENATOR(S) MEYER

03/02/15 (S) READ THE FIRST TIME - REFERRALS
03/02/15 (S) STA
03/10/15 (S) STA AT 8:30 AM BUTROVICH 205

BILL: SB 62

SHORT TITLE: REGULATION OF MARIJUANA BUSINESSES; BOARD
SPONSOR(S): JUDICIARY

02/25/15 (S) READ THE FIRST TIME - REFERRALS
02/25/15 (S) STA, L&C, FIN
03/05/15 (S) STA AT 9:00 AM BUTROVICH 205
03/05/15 (S) Heard & Held
03/05/15 (S) MINUTE(STA)
03/10/15 (S) STA AT 8:30 AM BUTROVICH 205

BILL: SB 42

SHORT TITLE: PERSONAL USE FISHING PRIORITY
SPONSOR(S): STOLTZE

02/04/15 (S) READ THE FIRST TIME - REFERRALS
02/04/15 (S) STA, RES
03/10/15 (S) STA AT 8:30 AM BUTROVICH 205

WITNESS REGISTER

SENATOR KEVIN MEYER
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Sponsor of SCR 6.

SUZI PEARSON, Executive Director
Abused Women's Aid in Crisis (AWAIC)
Anchorage, Alaska
POSITION STATEMENT: Explained "Green Dot."

BETH BOGARDE, Executive Director
Women in Safe Homes (WISH)
Ketchikan, Alaska
POSITION STATEMENT: Testified in support of SCR 6.

KEITH MALLARD, Chief of Police
University of Alaska - Fairbanks Police Department
Fairbanks, Alaska
POSITION STATEMENT: Expressed his support for SCR 6.

ROWENA PALOMAR, Executive Director

Advocates for Victims of Violence
Valdez, Alaska

POSITION STATEMENT: Testified in support of SCR 6.

SARALYN TABACHNIK, Executive Director
AWARE, Inc.
Juneau, Alaska

POSITION STATEMENT: Testified in support of SCR 6.

LAUREE MORTON, Executive Director
State Council on Domestic Violence and Sexual Assault
Juneau, Alaska

POSITION STATEMENT: Testified in support of SCR 6.

FRANCI HAVEMEISTER
Director
Division of Agriculture
Department of Natural Resources
Palmer, Alaska

POSITION STATEMENT: Provided the division's perspective on SB 62.

RICHARD SVOBODNY, Deputy Attorney General
Criminal Division
Department of Law
Juneau, Alaska

POSITION STATEMENT: Provided information on SB 62.

SAM COTTON, Commissioner
Department of Fish and Game
Juneau, Alaska

POSITION STATEMENT: Presented information on SB 42.

VIRGIL UMPHENOUR, Chair
Fairbanks Fish and Game Advisory Committee,
North Pole, Alaska

POSITION STATEMENT: Testified in support of SB 42.

ROD ARNO, Executive Director
Alaska Outdoor Council
Palmer, Alaska

POSITION STATEMENT: Testified in support of SB 42.

WES HUMBYRD, representing himself
Homer, Alaska

POSITION STATEMENT: Testified in opposition to SB 42.

ACTION NARRATIVE

[8:31:21 AM](#)

CHAIR STOLTZE called the Senate State Affairs Standing Committee meeting to order at 8:31 a.m. Present at the call to order were Senators Coghill, McGuire, and Chair Stoltze.

CHAIR STOLTZE turned the gavel over to Vice Chair Coghill.

SCR 6-SEXUAL ASSAULT AWARENESS MONTH: APRIL 2015

[8:32:13 AM](#)

VICE CHAIR COGHILL announced the consideration of SCR 6.

[8:32:22 AM](#)

SENATOR KEVIN MEYER, Alaska State Legislature, sponsor of SCR 6, provided an overview of the resolution. He said the resolution proclaims April 2015 as Sexual Assault Awareness Month. It is part of an annual campaign to raise public awareness about sexual assault and educate communities and individuals on how to prevent sexual violence across the nation. Sexual violence is a very serious public health problem. It affects millions of men and women. The Centers for Disease Control reports that in the United States, one in five women and one in seventy-one men have experienced violent sexual assault in their lifetime. In Alaska, these rates are much higher - almost two-and-a-half times the national average. Statistics underestimate the problem because many victims do not tell the police, family, or friends about the violence.

He said that sexual violence impacts health in many ways and can lead to long-term mental and physical health problems. By bringing awareness to the crime of sexual assault and recognizing the enormity of the problem, we can begin to address it and heal from it and, hopefully, prevent it. SCR 6 is a small but significant step in educating the public and our communities on lifting the veil of secrecy that so often hides these horrific crimes.

[8:33:04 AM](#)

SENATOR WIELECHOWSKI joined the committee meeting.

VICE CHAIR COGHILL asked if the committee had any questions.

SENATOR MCGUIRE spoke in support of the resolution and thanked Senator Meyer for bringing it forward. She asked that testifiers provide comments on planned actions to combat sexual violence.

She pointed out Alaska's sexual assault statistics - number one in the nation in every category.

VICE CHAIR COGHILL commented that SCR 6 is a conversation starter.

8:36:26 AM

SUZI PEARSON, Executive Director, Abused Women's Aid in Crisis (AWAIC), thanked the committee for SCR 6 and for acknowledging the significant prevention work that domestic violence and sexual assault agencies throughout Alaska achieve in order to stop the cycle of violence. She explained a program in Anchorage called "Green Dot," a model of primary prevention formed by the Anchorage Alliance on Violence Prevention. It is a very collaborative, successful method of decreasing sexual violence.

8:38:46 AM

VICE CHAIR COGHILL thanked Ms. Pearson.

SENATOR MCGUIRE asked if Ms. Pearson was aware of Erin's Law.

MS. PEARSON answered yes.

SENATOR MCGUIRE asked if Ms. Pearson is supportive of providing sexual assault awareness for young people in schools and whether it could relate to Green Dot.

MS. PEARSON replied that domestic violence is cyclical in nature and generational. The only way to stop it is through teaching the current generation about healthy relationships and the best ways to protect themselves. She stressed the importance of focusing on youth, educating them, and providing them with great tools. She said Green Dot is based on peer relationships with leaders in schools who were trained and then trained their peers. It creates an environment that said violence is not ok, as well as allows students to step in when they see inappropriate behavior. She provided an example.

VICE CHAIR COGHILL noted issues with having the programs in schools. He thanked Ms. Pearson for her presentation.

8:42:07 AM

BETH BOGARDE, Executive Director, Women in Safe Homes (WISH), testified in support of SCR 6. She said everyone knows someone who has been sexually assaulted. The traumatic effects of sexual assault are life long, not only for the person who has suffered the abuse, but also for the children, family members, and future

relationships. She listed some of the programs the resolution would support, such as COMPASS for males. She described the partnerships WISH has, how WISH uses Native culture in its programs, and positive outcomes.

[8:46:22 AM](#)

MS. BOGARDE addressed the high number of assaults upon persons with disabilities. She said SCR 6 is one more call to action to reduce assaults on all populations.

SENATOR COGHILL thanked Ms. Bogarde.

[8:48:24 AM](#)

KEITH MALLARD, Chief of Police, University of Alaska - Fairbanks Police Department, expressed his support for SCR 6. He spoke of his history working in public service and his passion for protecting others. He shared his personal history of abuse and lack of intervention by those who were aware of it. He pointed out that those issues remain in society today, but that he has hope because of efforts to educate bystanders, such as with programs like Green Dot. He noted that Green Dot is coming to the Fairbanks campus. He stressed that everyone can agree that interpersonal violence is unacceptable, and everyone must do their part to combat it.

[8:52:52 AM](#)

SENATOR MCGUIRE thanked Chief Mallard for his testimony and for sharing his personal experience. She stressed the importance of strong male figures and the need for a cultural change. She asked for other ideas to encourage citizens to become more involved in prevention.

[8:55:12 AM](#)

CHIEF MALLARD answered that the power of individual choice is very important toward addressing this issue. Programs like Green Dot provides the skills to accomplish that.

SENATOR HUGGINS joined the committee meeting.

VICE CHAIR COGHILL thanked Chief Mallard for his testimony.

[8:59:22 AM](#)

ROWENA PALOMAR, Executive Director, Advocates for Victims of Violence, testified in support of SCR 6. She provided an overview of sexual assault in Valdez, which holds the record for the most sexual assaults by one man in Alaska. She said her job

is to let victims know that there is help available for them. Valdez now has a Sexual Assault Response Team (SART).

VICE CHAIR COGHILL thanked Ms. Palomar.

[9:03:07 AM](#)

SARALYN TABACHNIK, Executive Director, AWARE, Inc., testified in support of SCR 6, noting it was very comprehensive. She voiced appreciation for the recognition for individual community, agency, and statewide prevention efforts. She spoke about one of those efforts, "Girls on the Run." It is an international program that began in 1996 in North Carolina and has grown to over 1 million girls. It envisions a world where every girl knows and activates her limitless potential and is free to boldly pursue her dream. In Juneau, a pilot program of Girls on the Run was started in 2008. She described the program's curriculum, results, and successes throughout the state.

[9:08:02 AM](#)

MS. TABACHNIK concluded with the resolution's comprehensive approach to preventing sexual abuse. She voiced appreciation for the long-term investment.

SENATOR COGHILL thanked Ms. Tabachnik.

SENATOR MCGUIRE thanked Ms. Tabachnik. She asked what could be done to engage young men more.

[9:10:52 AM](#)

MS. TABACHNIK pointed out a program called "Boys Run" that incorporates Native values. She hoped to partner with other agencies on it.

[9:13:11 AM](#)

LAUREE MORTON, Executive Director, State Council on Domestic Violence and Sexual Assault, testified in support of SCR 6. She related that many of the programs the committee heard today involve increasing protective factors and building resiliency among young people because they are then less likely to engage in violent behaviors in sexual assault, and in domestic violence. She noted two additional programs, "Coaching Boys into Men," working with male athletes, and "Talk Now, Talk Often," a program for parents.

She voiced appreciation for the committee's efforts toward ending domestic violence and sexual assault.

VICE CHAIR COGHILL thanked Ms. Morton. He appreciated learning more about available programs.

SENATOR STOLTZE said the resolution has a zero fiscal note.

[9:16:39 AM](#)

SENATOR STOLTZE moved to report SCR 6 from committee with individual recommendations and attached zero fiscal note. There being no objection, the motion carried.

VICE CHAIR COGHILL announced SCR 6 moved out of committee.

[9:17:06 AM](#)

At ease.

SB 62-REGULATION OF MARIJUANA BUSINESSES; BOARD

[9:18:26 AM](#)

CHAIR STOLTZE called the committee back to order. He announced that the next order of business would be SB 62.

[9:19:17 AM](#)

FRANCI HAVEMEISTER, Director, Division of Agriculture, Department of Natural Resources, provided the division's perspective on SB 62. She related that the division has had discussions with the Department of Law and believes that the potential interaction between the marijuana industry and the division may involve the Agriculture Revolving Loan Fund. It may also include agriculture land sales in that the division requires a farm conservation plan be submitted to the division. There may also be interaction between the plant material center staff with technical assistance on cultivation production and the Alaska Grown Marketing Program.

CHAIR STOLTZE asked if marijuana meets labeling requirements as "Alaska Grown"

MS. HAVEMEISTER said there are ongoing discussions with the Department of Law regarding that issue.

CHAIR STOLTZE asked what the inhibitors might be.

[9:21:51 AM](#)

MS. HAVEMEISTER answered that she is not aware of anything that would prohibit it except for the implication of federal money being used for the marketing program. She noted that "Colorado

Proud" has a disclaimer stating that if the crop is federally illegal, the seller is not able to participate in the program.

CHAIR STOLTZE asked if the division has discussed the segregation of state versus federal funds in the marketing program.

MS. HAVEMEISTER said no.

CHAIR STOLTZE noted that the plant materials center engages in seed certification and disease control. He asked if marijuana is an invasive weed.

[9:22:51 AM](#)

MS. HAVEMEISTER said she did not believe so.

CHAIR STOLTZE added "not in the purely, technical, agricultural sense."

MS. HAVEMEISTER answered correct.

CHAIR STOLTZE noted the success of Greenhouse Loans. He requested to know the barriers and opportunities for farmers' participation in the division's programs.

[9:23:43 AM](#)

MS. HAVEMEISTER answered that the division is having that discussion with the Department of Law. No determination has been made.

CHAIR STOLTZE asked if there have been policy discussions.

MS. HAVEMEISTER said the board has had some discussion on a limited basis.

CHAIR STOLTZE asked which board.

MS. HAVEMEISTER said the Board of Agriculture, which includes the Attorney General.

CHAIR STOLTZE asked who sat in on the meetings.

MS. HAVEMEISTER said Mr. McFarlane.

[9:24:56 AM](#)

SENATOR COGHILL noted Colorado's radio-frequency identification (RFID) technology to track plants and asked if Alaska uses RFID to track agriculture.

MS. HAVEMEISTER answered not that she is aware of.

SENATOR COGHILL explained that the potency and value of plants is determined by a selection of individual plants in a growing area, such as a greenhouse. He asked if that could be done in Alaska.

MS. HAVEMEISTER answered potentially yes.

[9:26:08 AM](#)

CHAIR STOLTZE noted other states that have commercialized marijuana have heightened security and enacted bonding requirements. He wondered if fiscal notes would be needed.

MS. HAVEMEISTER said they have discussed the funding of commercialization and are trying to understand the financial impacts to the division.

[9:27:12 AM](#)

CHAIR STOLTZE noted the U.S. Department of Agriculture's discussion of the Food Safety and Modernization Act and asked what challenges the division might have with regulations for growing marijuana as they relate to that Act.

MS. HAVEMEISTER replied that the Act is going to be challenging for all agriculture divisions throughout the nation. Currently, the authority lies within the Department of Commerce, Community and Economic Development (DCCED). She noted the division is in conversation with DCCED to work out a Memorandum of Understanding (MO) that would put the on-farm inspections through the division. She reported that, at this time, the final rules will be published in September or October of 2015. At that time the division will know the true implications and effects it will have on Alaska growers.

SENATOR HUGGINS asked about the shipping of seeds to Alaska.

[9:29:48 AM](#)

MS. HAVEMEISTER understood that shipping marijuana seeds must be authorized with the Department of Agriculture (DOA) and is not easily done.

CHAIR STOLTZE pointed out efforts required to control disease in the agriculture industry. He assumed there would be a fiscal impact to DNR and suggested that they prepare for that. He requested fiscal information.

MS. HAVEMEISTER agreed to provide that.

[9:32:53 AM](#)

SENATOR HUGGINS asked how growers pollinate marijuana.

MS. HAVEMEISTER said she is not familiar with that, but the division is looking into it.

SENATOR HUGGINS asked if marijuana is a "volunteer" plant. He provided a scenario and asked whether the plant will lose its potency the second year.

[9:34:38 AM](#)

MS. HAVEMEISTER said she did not know. She thought marijuana production would take place in a greenhouse.

SENATOR HUGGINS was concerned about re-growth.

CHAIR STOLTZE thanked Ms. Havemeister.

[9:37:09 AM](#)

RICHARD SVOBODNY, Deputy Attorney General, Criminal Division, Department of Law, provided information on SB 62. He considered SB 62 a regulatory bill.

CHAIR STOLTZE pointed out public notice issues and the mandate to regulate marijuana like alcohol.

[9:40:05 AM](#)

MR. SVOBODNY addressed regulating marijuana like alcohol. He said it is easier to regulate alcohol due to the larger infrastructure in place. The marijuana industry is just beginning and much is unknown. For example, the bill provides for three new types of licenses.

CHAIR STOLTZE requested information about the notice requirement, pointing out the public safety aspect. Both sides say that they must have notice or privacy, both reflecting criminal concerns.

[9:41:37 AM](#)

MR. SVOBONDY opined that *Ravin vs. State* was not based on the constitutional right to possess or use marijuana. It was based upon the right of privacy and there was a heightened right of privacy in one's home. It only dealt with personal use, not commercial use.

CHAIR STOLTZE said if that includes boutique production in one's home.

MR. SVOBODNY answered that example is similar to running a business out of your home, such as Amway. There is a greater interest in allowing legislation to control what happens in your home when it is commercial, as opposed to personal. He gave several examples.

[9:44:30 AM](#)

CHAIR STOLTZE asked whether there are commercial alcohol businesses that are allowed to conduct their business in anonymity and have a right of privacy.

MR. SVOBODNY answered no. A person can make beer or wine in one's home, but that is not a commercial operation and does not require a license like home-grown marijuana would.

[9:45:38 AM](#)

SENATOR MCGUIRE opined that the struggle with the *Ravin* ruling is that marijuana was illegal at the time. She predicted that legalization and the right to privacy would intersect in the future.

MR. SVOBODNY agreed.

SENATOR MCGUIRE asked about pending litigation from states surrounding Colorado. They are asserting that the marijuana industry in Colorado has had disproportionate negative impacts on them. She asked if Alaska might be subjected to that type of litigation from Washington or Oregon.

MR. SVOBODNY said it was an interesting case and he did not think it would happen to Alaska because both Washington and Oregon have marijuana initiatives.

[9:49:00 AM](#)

SENATOR MCGUIRE asked if that case might ultimately lead to a Supreme Court decision about the federalization of marijuana.

MR. SVOBODNY said he had no idea.

SENATOR HUGGINS asked about tribal rights in either Colorado or Washington.

MR. SVOBODNY thought Senator Huggins might be referring to a memorandum from the Justice Department in the last six months that has set out a framework for Indian reservations to make a decision about whether or not to decriminalize marijuana. The only area in Alaska that would meet that criteria is Metlakatla.

[9:52:14 AM](#)

SENATOR COGHILL commented that seeds from out of state, would be an interstate commerce criminal issue on the federal level. He asked how the state would handle it.

MR. SVOBODNY asked if he was asking if under the initiative it would be a crime to possess seeds in territorial waters of Alaska.

SENATOR COGHILL thought Alaska might have to have a license to accept five pounds of seeds.

MR. SVOBODNY explained that from the standpoint of the initiative, Alaska would have to have a license to import seeds. He did not know what the penalties under state law would be. Currently, it is a violation of federal law. The initiative does not change federal law. The federal government could make a determination to go forward in any criminal case.

He questioned where the boundaries of the administrative state are under SB 62 and how much authority can be given to an administrative agency. He did not think an administrative agency should be creating crimes, but that it is the legislature's job to do so. He stated that half of the states have required the crimes to be spelled out in statute; others have said it is sufficient to give an administrative agency that authority, but the legislature must set standards for their use in creating administrative regulations. He stressed the importance of that.

[9:57:36 AM](#)

CHAIR STOLTZE requested Mr. Svobodny work with Commissioner Folger and Commissioner Richards on the administration's ideas on public safety priorities and public notice and zoning issues. He noted the sponsor's mandate on privacy.

[9:59:48 AM](#)

MR. SVOBODNY agreed to do so by Monday. He pointed out that the need to be licensed means a lessened amount of privacy. He noted that OSHA and other regulatory entities will interact with the new businesses.

[10:01:06 AM](#)

SENATOR WIELECHOWSKI requested information from prosecutors in Anchorage about the uptick in violence. He wondered if it is drug related and a reaction to the proposed legislation.

MR. SVOBODNY agreed to find out.

[SB 62 was held in committee.]

[10:02:05 AM](#)

At ease.

SB 42-PERSONAL USE FISHING PRIORITY

[10:02:46 AM](#)

VICE CHAIR COGHILL brought the meeting back to order.

SENATOR STOLTZE, as sponsor of SB 42, provided an overview of the bill. He said the bill directs the Board of Fisheries to place restrictions on sport and commercial fisheries before putting restrictions on personal use fisheries when the harvest of a stock or species is limited to achieve an escapement goal. He noted the benefit of this bill in the Cook Inlet area where the greatest tension exists. He noted the importance of food security for Alaska residents.

[10:06:47 AM](#)

SENATOR STOLTZE continued to explain that SB 42 is a simple bill. He named the Alaskans that would benefit from the bill. He noted his family participates in fishing. He understood that the issue is political.

[10:09:52 AM](#)

SENATOR MCGUIRE thanked Senator Stoltze for bringing the bill forward and echoed his comments. She said her constituents want the opportunity to pass on the tradition of fishing. She said she plans to co-sponsor the bill. She noted the constitutional mandate that the resources of the state should be shared among the people for maximum benefit. She compared it to hunting rights.

[10:12:36 AM](#)

SENATOR STOLTZE stated that subsistence and personal use should be a priority because they are for Alaska residents.

SENATOR HUGGINS commented that in the Wasilla area, the public cannot catch fish until August. Fishing is a "fighting" issue. He voiced appreciation for the bill. He asked who was opposed to the bill.

[10:16:35 AM](#)

SENATOR STOLTZE answered that he would rather not battle with those who are against the bill. He explained the litigation history of fishing issues. He maintained that the bill is a positive, productive solution.

[10:19:14 AM](#)

SAM COTTON, Commissioner, Department of Fish and Game, presented information on SB 42. He shared that historically the department has taken a neutral stance on this legislation. He said the legislature has the right to make allocative decisions in statute and the Board of Fisheries would be required to follow them. He said he is happy to work with the sponsor on issues that may come up as the bill progresses.

Commissioner Cotton pointed out that there are 80 different personal-use fisheries in Alaska and it is possible that some may have unique circumstances that may need to be considered in order to avoid unintended consequences.

SENATOR STOLTZE noted a sports analogy.

COMMISSIONER COTTON described some of the areas of controversy. He spoke in favor of the resident preference in the bill.

SENATOR STOLTZE asked if crab is considered a fish stock.

COMMISSIONER COTTON answered yes.

[10:22:55 AM](#)

VIRGIL UMPHENOUR, Chair, Fairbanks Fish and Game Advisory Committee, testified in support of SB 42. He said he was on the Board of Fisheries for eight years. He recalled one of the first meetings he attended was about Cook Inlet. He cited problems with the commercial fisheries and his goal to get a meaningful dip net fishery for the Kenai Peninsula. He said the bill is long overdue.

[10:25:08 AM](#)

ROD ARNO, Executive Director, Alaska Outdoor Council, testified in support of SB 42. He related that at the annual meeting in Juneau there were 21 delegates who unanimously endorsed SB 42. He voiced appreciation for the efforts of the sponsor. He said it is a good step in times of shortages.

[10:26:46 AM](#)

WES HUMBYRD, representing himself, testified in opposition to SB 42. He shared that he has been a commercial fisherman in Cook Inlet since 1966. He disagreed with some of the previous comments. He said he does not know of any gillnetter in Cook Inlet that wants to take away anyone's personal use fishery. They want to see the illegal aspects of it taken away.

[10:30:04 AM](#)

VICE CHAIR COGHILL thanked all the testifiers. He returned the gavel to Chair Stoltze.

CHAIR STOLTZE noted that public testimony for SB 42 would remain open.

[10:31:25 AM](#)

There being no further business to come before the committee, Chair Stoltze adjourned the Senate State Affairs Standing Committee hearing at 10:31 a.m.