

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 27, 2017

8:04 a.m.

MEMBERS PRESENT

Representative Zach Fansler, Co-Chair
Representative Justin Parish, Co-Chair
Representative Harriet Drummond
Representative Dean Westlake
Representative George Rauscher
Representative Dan Saddler
Representative David Talerico

MEMBERS ABSENT

Representative DeLena Johnson (alternate)
Representative Jonathan Kreiss-Tomkins (alternate)

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 63(FIN)

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

- MOVED HCS CSSB 63(CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 63

SHORT TITLE: REGULATION OF SMOKING

SPONSOR(S): SENATOR(S) MICCICHE

02/17/17	(S)	READ THE FIRST TIME - REFERRALS
02/17/17	(S)	HSS, FIN
03/01/17	(S)	HSS AT 1:30 PM BUTROVICH 205
03/01/17	(S)	Moved SB 63 Out of Committee
03/01/17	(S)	MINUTE(HSS)
03/03/17	(S)	HSS RPT 5DP
03/03/17	(S)	DP: WILSON, BEGICH, VON IMHOF, GIESSEL, MICCICHE
03/13/17	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/13/17	(S)	Heard & Held
03/13/17	(S)	MINUTE(FIN)
03/20/17	(S)	FIN AT 9:00 AM SENATE FINANCE 532

03/20/17 (S) Moved CSSB 63(FIN) Out of Committee
03/20/17 (S) MINUTE(FIN)
03/21/17 (S) FIN RPT CS 6DP 1NR SAME TITLE
03/21/17 (S) DP: HOFFMAN, MACKINNON, BISHOP, VON
IMHOF, OLSON, MICCICHE
03/21/17 (S) NR: DUNLEAVY
03/27/17 (S) TRANSMITTED TO (H)
03/27/17 (S) VERSION: CSSB 63(FIN)
03/29/17 (H) READ THE FIRST TIME - REFERRALS
03/29/17 (H) CRA, JUD
04/13/17 (H) CRA AT 8:00 AM BARNES 124
04/13/17 (H) Heard & Held
04/13/17 (H) MINUTE(CRA)
04/18/17 (H) CRA AT 8:00 AM BARNES 124
04/18/17 (H) Heard & Held
04/18/17 (H) MINUTE(CRA)
04/25/17 (H) CRA AT 8:00 AM BARNES 124
04/25/17 (H) Heard & Held
04/25/17 (H) MINUTE(CRA)
04/27/17 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

SENATOR MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, responded to proposed amendments during the hearing on CSSB 63(FIN).

ACTION NARRATIVE

8:04:06 AM

CO-CHAIR JUSTIN PARISH called the House Community and Regional Affairs Standing Committee meeting to order at 8:04 a.m. Representatives Westlake, Talerico, Fansler, and Parish were present at the call to order. Representatives Drummond, Rauscher, and Saddler arrived as the meeting was in progress.

SB 63-REGULATION OF SMOKING

8:05:01 AM

CO-CHAIR PARISH announced that the only order of business would be CS FOR SENATE BILL NO. 63(FIN), "An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

CO-CHAIR PARISH stated his intent was to hear amendments and move the bill out of committee.

CO-CHAIR PARISH handed the gavel to Co-Chair Fansler.

[8:05:33 AM](#)

CO-CHAIR PARISH moved to adopt Amendment 3, labeled 30-LS0024\N.11, Martin, 4/26/17, which read as follows:

Page 4, lines 27 - 28:

Delete "a freestanding building"

Insert "freestanding"

Page 4, following line 29:

Insert a new paragraph to read:

"(1) "freestanding" means a building that does not share ventilation or air space with an adjacent structure and smoke from the building cannot travel into the adjacent structure;"

Re-number the following paragraphs accordingly.

REPRESENTATIVE TALERICO objected for the purpose of discussion.

[8:05:52 AM](#)

CO-CHAIR PARISH noted that at the last hearing on CSSB 63(FIN), the House Community and Regional Affairs Standing Committee had discussed "freestanding" buildings. He said Amendment 3 would support the prime sponsor's intent that there should not be two buildings with smoke "traveling back and forth between them," but it would accommodate old structures in Juneau, which share a wall. He said the proposed amendment offers a definition of freestanding.

[8:07:51 AM](#)

REPRESENTATIVE DRUMMOND asked if the definition of "freestanding" in Amendment 3 is a new one and if a definition already exists in statute.

CO-CHAIR PARISH answered that it is a new definition.

[8:08:39 AM](#)

REPRESENTATIVE RAUSCHER said, "So, this just defines itself, solely on its own, 'freestanding'."

CO-CHAIR PARISH interjected, "Yes."

8:09:08 AM

REPRESENTATIVE TALERICO asked to hear the prime sponsor's views on Amendment 3.

8:09:15 AM

SENATOR MICCICHE, Alaska State Legislature, as prime sponsor of CSSB 63(FIN), said the proposed legislation addresses secondhand smoke, and Amendment 3 "seems to separate secondhand smoke from an adjacent building," which he said he thinks is "the only intent of the entire bill."

8:09:52 AM

REPRESENTATIVE TALERICO withdrew his objection.

CO-CHAIR FANSLER objected for the purpose of discussion. He expressed concern regarding the definition of "freestanding" as a building that does not share airspace. He explained that "airspace" seems vague. He further expressed concern about the use of "adjacent". He said he can imagine a scenario wherein there are two buildings close to one another where smoke could travel into the adjacent structure "thereby negating what I think would have been a freestanding building under the previous definition and no longer saying it's a freestanding building."

8:11:19 AM

CO-CHAIR PARISH said that is a valid concern, although he said it is strange to think that by opening a window a building could become freestanding or not. He added, "It does reveal a bug in the amendment that I presented."

8:12:15 AM

SENATOR MICCICHE indicated that "originally we had 'attached to' and 'supported by'." He said he thinks that if there is concern about the definition [of "freestanding"], then "supported by" would retain the structural definition of freestanding. He said he thinks "the second part of it satisfies what Representative Parish was concerned about" where, in downtown Juneau, some

buildings are attached but not supporting one another. He said there would be no perfect solution. For example, even with separation, [there could be smoke transferred from one building to the next] on a windy day.

[8:13:54 AM](#)

CO-CHAIR PARISH pondered over the use of "adjacent" instead of "adjoining."

[8:14:21 AM](#)

REPRESENTATIVE DRUMMOND suggested an engineer could answer many of the questions the committee was asking regarding building architecture. She said buildings that are "up against each other" but "do not share structure" must have firewalls between them.

[8:15:06 AM](#)

CO-CHAIR PARISH stated a concern had been raised about smoke traveling from one space to another through power outlets.

REPRESENTATIVE DRUMMOND relayed that "penetrations are not permitted" in a fire wall.

[8:16:52 AM](#)

REPRESENTATIVE SADDLER offered his understanding that "adjacent" means "near" and "adjoining" means "connected." For example, he said the Terry Miller Building is adjacent to the Capitol building, whereas the Thomas B. Stewart Building is adjoining, even if only by the [skybridge]. He opined that consideration of whether there is shared air space is a more compelling limitation or condition.

[8:17:46 AM](#)

REPRESENTATIVE DRUMMOND offered her understanding that smoking is already prohibited in the Capitol and its related buildings. Nevertheless, she offered the unlikely scenario of a "smoke shop" being opened in the basement of the Thomas B. Stewart Building, and she said if that were to happen, then the smoke would travel to the Capitol because of the attachment of the buildings via the [skybridge].

[8:18:49 AM](#)

CO-CHAIR FANSLER recommended putting Amendment 3 aside to address later when someone from Legislative Legal and Research Services might be available to answer questions.

REPRESENTATIVE DRUMMOND moved to table Amendment 3. There being no objection, Amendment 3 was tabled.

[8:19:49 AM](#)

CO-CHAIR PARISH moved to adopt Amendment 4, labeled "30-LS0024\N.7, Martin, 4/25/17," which read as follows:

Page 7, line 10, following "imposing":
Insert "additional"

Page 7, line 11:
Delete "additional"
Delete "or"

Page 7, line 12:
Delete "additional"

Page 7, line 14, following "smoking":
Insert "; or
(3) limitations on smoking in an outdoor area at a municipal park designated as a children's playground"

REPRESENTATIVE TALERICO objected for the purpose of discussion.

CO-CHAIR PARISH reviewed the changes that would be made under Amendment 4 and stated that it would "slightly explicitly" expand the authority of municipalities.

[8:21:31 AM](#)

REPRESENTATIVE TALERICO requested feedback from the prime sponsor regarding Amendment 4.

[8:21:37 AM](#)

SENATOR MICCICHE said under CSSB 63(FIN) there is nothing that would prohibit a municipality of "making an ordinance that's stricter in any way, shape, or form." He noted page 7, line 11, pertains to "additional limitations on smoking" or "additional duties on employers, owners, operators, and other persons who are subject to the requirements" of the proposed legislation.

He indicated that if Amendment 3 [which was tabled] were to be adopted, it "clarifies that even further"; therefore, he stated, "It certainly doesn't hurt a thing."

[8:23:23 AM](#)

REPRESENTATIVE TALERICO removed his objection to the motion to adopt Amendment 4. There being no further objection, Amendment 4 was adopted.

[8:23:53 AM](#)

The committee took an at-ease from 8:24 a.m. to 8:40 a.m.

[8:40:00 AM](#)

CO-CHAIR FANSLER brought the committee back to order.

[Amendment 3 was, at this point, treated as back on the table.]

[8:40:11 AM](#)

CO-CHAIR PARISH moved to adopt Conceptual Amendment 1 to Amendment 3, such that the new language proposed by Amendment 3 [text provided previously], on page 4, following line 29, would read as follows:

(1) "freestanding" means a building that is not supported by another structure and does not share ventilation or internal air space with an adjoining structure and smoke from the building cannot travel into an adjoining structure."

[8:41:14 AM](#)

The committee took an at-ease from 8:41 a.m. to 8:42 a.m.

[8:42:34 AM](#)

CO-CHAIR FANSLER reviewed Conceptual Amendment 1 to Amendment 3. He said it would change the two instances of "adjacent" to "adjoining"; add "is not supported by another structure and" before "does"; and add "internal" before "air space".

[8:43:13 AM](#)

SENATOR MICCICHE said he thinks the concern was to not make the bill so restrictive that it could not accommodate 100-year-old buildings, such as those in Juneau and Seward, that are attached but separate. He indicated that Conceptual Amendment 1 to Amendment 3 would address this concern by [narrowing the restriction] to buildings that are supported by another structure or share air. He added that he thinks Conceptual Amendment 1 to Amendment 3 would satisfy the committee's desire to allow "a business in that type of freestanding structure."

[8:44:28 AM](#)

CO-CHAIR FANSLER announced that there being no objection, Conceptual Amendment 1 to Amendment 3 was adopted.

CO-CHAIR FANSLER removed his objection to Amendment 3, [as amended]. There being no further objection, Amendment 3, as amended, was adopted.

[8:45:33 AM](#)

CO-CHAIR PARISH moved to adopt Conceptual Amendment 5, which he explained is a request "to revisit the definition of freestanding in a future committee of referral." He explained this is intent language.

REPRESENTATIVE SADDLER objected for the purpose of discussion. He said he thinks Conceptual Amendment 5 is redundant, because any subsequent committee of referral "has the full rights to make an amendment." He suggested that the intent could be simply communicated to the next committee of referral.

[8:46:45 AM](#)

CO-CHAIR PARISH said he thinks there is some merit to "specifically calling out a part of the bill as being unfinished"; therefore, while he could communicate the idea to the next committee of referral off the record, he would feel more confident having done so on the record.

[8:47:31 AM](#)

REPRESENTATIVE RAUSCHER asked if Co-Chair Parish could indicate his intent "under his check mark, under 'amend'" [on the committee report].

CO-CHAIR FANSLER responded that that would be another option for sending the message, but [Conceptual Amendment 5] would be a more explicit way.

[8:47:59 AM](#)

REPRESENTATIVE TALERICO concurred with Representative Saddler that the prerogative of the chair is to pass along a request to the chair of the next committee of referral to consider [the definition of "freestanding"]. Further, he opined that it may be more appropriate [to speak directly with the chair of the next committee of referral] than to put intent language "within the body of the bill itself." He offered his understanding that the next committee of referral would have to clean up the bill by removing that intent language.

[8:48:57 AM](#)

CO-CHAIR PARISH withdrew his motion to adopt Conceptual Amendment 5.

[8:49:52 AM](#)

CO-CHAIR FANSLER passed the gavel back to Co-Chair Parish.

[8:50:07 AM](#)

CO-CHAIR FANSLER opined that the committee had thoroughly vetted CSSB 63(FIN). He said, "We can't make perfect ... be the enemy of good." He stated his support of moving the proposed legislation out of committee forthwith.

[8:51:00 AM](#)

REPRESENTATIVE RAUSCHER noted that during public testimony [heard during the House Community and Regional Affairs Standing Committee meetings of 4/13/17 and 4/18/17] there was a lot of comment from public regarding e-cigarettes ("e-cigs"). He offered his understanding that "over 85 percent" had said they "kicked the habit" with the aid of e-cigs. He encouraged attention be given to who called in to testify and the reasoning behind their testimony.

[8:51:53 AM](#)

CO-CHAIR PARISH said he had worked in a group home where a resident self-medicated with nicotine, and he persuaded the

resident to switch to "vapor," because he had believed that it was less harmful. He indicated that he has since seen the man, who "has managed to quit"; therefore, Co-Chair Parish said he is "not insensible to the notion that vaping can be a transitional product." Nevertheless, he said he does not believe that [vaping] is good for a person. He said he thinks vaping should have some level of restriction; however, perhaps not at the same level as [combustible tobacco products]. He acknowledged the extensive testimony: dozens testified that vaping should be included in CSSB 63(FIN); therefore, he did not offer an amendment [to exclude it]. He noted that the "overall health consequences [of vaping] are unclear at this time," and "pending better data on the long-term effects of vaping," he does not feel it is appropriate to "distinguish it too far from smoking."

[8:54:23 AM](#)

CO-CHAIR FANSLER moved to report CSSB 63(FIN), as amended, out of committee with individual recommendations and the accompanying fiscal note, with the intent to inform the next committee of referral "to review the 'freestanding' issue." There being no objection HCS CSSB 63(CRA) was reported out of the House Community and Regional Affairs Standing Committee.

[8:55:10 AM](#)

The committee took an at-ease from 8:55 a.m. to 8:59 a.m.

[8:59:22 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:59 a.m.