

**ALASKA STATE LEGISLATURE**  
**HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE**

February 22, 2018

8:06 a.m.

**MEMBERS PRESENT**

Representative Justin Parish, Co-Chair  
Representative Harriet Drummond  
Representative John Lincoln  
Representative Dan Saddler  
Representative David Talerico  
Representative Jonathan Kreiss-Tomkins (alternate)

**MEMBERS ABSENT**

Representative George Rauscher  
Representative DeLena Johnson (alternate)

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 30

Urging the United States Congress to reaffirm the commitment of the United States to promote the safety, health, and well-being of refugees and displaced persons; urging the United States government to uphold its international leadership role in responding to displacement crises with humanitarian assistance and to work with the international community and the United Nations High Commissioner for Refugees to find solutions to conflicts and protect refugees; and urging the President of the United States to continue to mitigate the burden placed on frontline refugee host countries.

- MOVED HJR 30 OUT OF COMMITTEE

HOUSE BILL NO. 264

"An Act relating to a fee for disposable shopping bags; relating to the sale of reusable shopping bags; relating to the recycling of disposable shopping bags; and providing for an effective date."

- MOVED CSHB 264 (CRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HJR 30

SHORT TITLE: URGE U.S. SUPPORT OF REFUGEES

SPONSOR (s) : REPRESENTATIVE (s) JOSEPHSON

01/24/18 (H) READ THE FIRST TIME - REFERRALS  
01/24/18 (H) CRA, STA  
02/13/18 (H) CRA AT 8:00 AM BARNES 124  
02/13/18 (H) Heard & Held  
02/13/18 (H) MINUTE (CRA)  
02/22/18 (H) CRA AT 8:00 AM BARNES 124

BILL: HB 264

SHORT TITLE: SHOPPING BAG FEES & RECYCLING

SPONSOR (s) : REPRESENTATIVE (s) JOSEPHSON

01/08/18 (H) PREFILE RELEASED 1/8/18  
01/16/18 (H) READ THE FIRST TIME - REFERRALS  
01/16/18 (H) CRA, L&C  
01/30/18 (H) CRA AT 3:00 PM BARNES 124  
01/30/18 (H) -- MEETING CANCELED --  
02/10/18 (H) CRA AT 10:00 AM BARNES 124  
02/10/18 (H) Heard & Held  
02/10/18 (H) MINUTE (CRA)  
02/13/18 (H) CRA AT 8:00 AM BARNES 124  
02/13/18 (H) Heard & Held  
02/13/18 (H) MINUTE (CRA)  
02/22/18 (H) CRA AT 8:00 AM BARNES 124

#### **WITNESS REGISTER**

REPRESENTATIVE ANDY JOSEPHSON

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** As prime sponsor of HB 264, offered comment regarding a proposed amendment.

#### **ACTION NARRATIVE**

[8:06:12 AM](#)

**CO-CHAIR JUSTIN PARISH** called the House Community and Regional Affairs Standing Committee meeting to order at 8:06 a.m. Representatives Saddler, Lincoln, Drummond, Kreiss-Tomkins (alternate), Talerico, and Parish were present at the call to order.

#### **HJR 30-URGE U.S. SUPPORT OF REFUGEES**

[8:07:05 AM](#)

CO-CHAIR PARISH announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 30, Urging the United States Congress to reaffirm the commitment of the United States to promote the safety, health, and well-being of refugees and displaced persons; urging the United States government to uphold its international leadership role in responding to displacement crises with humanitarian assistance and to work with the international community and the United Nations High Commissioner for Refugees to find solutions to conflicts and protect refugees; and urging the President of the United States to continue to mitigate the burden placed on frontline refugee host countries.

[8:07:58 AM](#)

REPRESENTATIVE TALERICO said U.S. Congress has a lot on its plate and is doing many things. He remarked that a lot of changes are occurring worldwide. He said he cannot claim to be an expert regarding immigration and refugees. He indicated that he [is not comfortable] trying to direct Congress to "do this" when there are quite a few programs and plans and Congress is working its way through "some of these issues." In terms of telling [Congress] to "reaffirm the commitment," he said he is not sure "we've lost commitment at all." He concluded that while he understands the intent of HJR 30, he would not be supporting it.

[8:09:34 AM](#)

REPRESENTATIVE LINCOLN moved to report HJR 30 out of committee. [No mention of a fiscal note was made in the motion.]

REPRESENTATIVE TALERICO objected.

[8:09:53 AM](#)

A roll call vote was taken. Representatives Kreiss-Tomkins (alternate), Lincoln, Drummond, and Parish voted in favor of the motion to report HJR 30 out of committee. Representatives Talerico and Saddler voted against it. Therefore, HJR 30 was reported out of the House Community and Regional Affairs Standing Committee by a vote of 4-2.

[8:10:31 AM](#)

The committee took an at-ease from 8:10 a.m. to 8:14 a.m.

[8:14:01 AM](#)

CO-CHAIR PARISH clarified that HJR 30 had moved out of committee "with individual recommendations and no attached fiscal note." [The committee subsequently passed a zero fiscal note for HJR 30 out of committee on 2/27/18.]

**HB 264-SHOPPING BAG FEES & RECYCLING**

[8:14:16 AM](#)

CO-CHAIR PARISH announced that the final order of business would be HOUSE BILL NO. 264, "An Act relating to a fee for disposable shopping bags; relating to the sale of reusable shopping bags; relating to the recycling of disposable shopping bags; and providing for an effective date."

[8:15:01 AM](#)

The committee took a brief at-ease at 8:15 a.m.

[8:15:42 AM](#)

CO-CHAIR PARISH moved to adopt Amendment 1, labeled 30-LS1178\J.1, Nauman, 2/21/18, which read as follows:

Page 1, line 8:

Delete "and (c)"

Insert ", (c), and (i)"

Page 3, following line 21:

Insert a new subsection to read:

"(i) This section does not apply to a retail seller in a municipality or an unincorporated community if the municipality or unincorporated community has a population of less than 5,500 people."

Reletter the following subsection accordingly.

Page 4, line 1:

Delete all material.

Reorder the following sub-subparagraph accordingly.

Page 4, line 5:

Delete "an"

Insert "a retail"  
Delete "\$100,000"  
Insert "\$250,000"

REPRESENTATIVE DRUMMOND objected for discussion.

CO-CHAIR PARISH spoke to Amendment 1, which he indicated would delete ["operates year-round" from the definition of "retail seller"] and increase the amount of \$100,000 to \$250,000 pertaining to the gross sales of retail sellers. He explained he proposed the deletion of "operates year-round" out of concern for seasonal businesses.

[8:17:45 AM](#)

CO-CHAIR PARISH referred to a response from Emily Nauman, Legislative Legal and Research Services, to a question regarding equal protection [memorandum included in the committee packet]. Ms. Nauman's response read as follows:

3. Equal Protection. Exempting retail sellers in communities under a certain size from the retail bag fee and recycling and reusable bag requirements of the bill triggers an equal protection concern under the state and federal constitutions. "The common question in addressing equal protection cases is whether two groups of people who are treated differently are similarly situated and thus entitled to equal treatment." In order for an exemption from tax to be valid under the state's equal protection test, it must be reasonable, not arbitrary, and must bear a fair and substantial relation to a legitimate governmental objective. To survive judicial scrutiny, at a minimum, a legitimate governmental purpose must be served. You will be responsible for building a legislative record that demonstrates both the governmental purpose in the exemption provided to retain sellers in the amendment and how the exemption fairly relates to the purpose. The outcome of a challenge to the exempting may very well depend on the record you build.

[8:19:06 AM](#)

The committee took an at-ease from 8:19 a.m. to 8:22 a.m.

[8:22:02 AM](#)

CO-CHAIR PARISH invited discussion on Amendment 1. He said the question is whether it is helpful to include communities below a certain population threshold.

[8:23:02 AM](#)

REPRESENTATIVE ANDY JOSEPHSON, Alaska State Legislature, as prime sponsor of HB 264, imparted that he had taught constitutional law for six years. He said the normal test that is applied in any equal protection case is to consider whether people in similarly situated classes are treated differently. He said, "Here, I would think that because all communities under 5,500 would be treated the same, ... that wouldn't be a problem. However, as noted by Ms. Nauman, he said there should be some discussion as to why the distinction is being made. He said, "I would leave it to the committee as to the purpose behind that distinction." In response to Co-Chair Parish, he said there are no other areas of objection in terms of Amendment 1, which he said he thinks would improve HB 264. He said there are "communities that are doing it anyway" and [Amendment 1] would allow communities to "opt in" to ban or seek a fee for plastic bags.

[8:25:34 AM](#)

REPRESENTATIVE SADDLER expressed appreciation that in the memorandum there are [definitions under various statutes] of the word "community".

CO-CHAIR PARISH read the definitions and corresponding statutes that are found in the aforementioned memorandum.

[8:27:22 AM](#)

REPRESENTATIVE LINCOLN noted one of the features of HB 264 would be that it would impose a 20-cent tax on plastic bags but "municipalities would be able to impose their own tax up to that point" and potentially capture the revenue from that tax for local use. He pointed out that unincorporated villages do not have that same opportunity, so he said the committee needs to "figure out a way to work with unincorporated villages."

[8:28:29 AM](#)

REPRESENTATIVE TALERICO observed the committee had been provided a list of communities that have a ban [included in the committee

packet], and most of those communities have a population of below 5,500. He observed the bill identifies retail seller - not boundaries - and Amendment 1 provides boundaries. He said there are retail sellers that serve more than one community, and he questioned whether that may become an issue.

[8:30:53 AM](#)

CO-CHAIR PARISH directed attention to page 3, line 28, of HB 264 and read the definition of "retail seller". He concluded that the location of a corporate office would be immaterial.

CO-CHAIR PARISH noted Doug Gardner, Legislative Legal and Research Services, was available on line.

[8:32:17 AM](#)

REPRESENTATIVE DRUMMOND said she was not sure Amendment 1 would accomplish the intent of the sponsor, which she offered her understanding is to encourage communities to protect their environments. She opined that seasonal businesses should not be exempted and asked for confirmation that they would be under HB 264.

CO-CHAIR PARISH answered yes, they would be under HB 264, unless they have annual gross sales of over \$100,000. Conversely, under Amendment 1 they would no longer be exempted.

REPRESENTATIVE DRUMMOND offered her understanding that under Amendment 1, "they will be required to tax the distribution of plastic bags like this to their costumers and encourage ... them to bring their own, but the tax continues to apply in a seasonal business."

CO-CHAIR PARISH answered that is correct, unless the sales of that business were less than \$250,000 in the previous calendar year.

REPRESENTATIVE DRUMMOND removed her objection to the motion to adopt Amendment 1.

[8:35:01 AM](#)

REPRESENTATIVE SADDLER concluded that essentially under Amendment 1 a seasonal operations threshold would be replaced with a retail sales threshold.

CO-CHAIR PARISH answered not exactly. He explained the retail sales threshold already existed, on page 4, line 5, [subparagraph] (b), which read as follows:

(B) an establishment that has annual gross sales of \$100,000 or more in the previous calendar year and that provides disposable shopping bags;

CO-CHAIR PARISH said that threshold struck him as low. He said he did not want to "capture businesses that are just starting out." Amendment 1 would raise the threshold to make things easier for new businesses transitioning into the economy.

REPRESENTATIVE SADDLER offered his understanding that whether \$100,000 or \$250,000 a year retail, that becomes the threshold. He said, "By the amendment's illumination of page 4, line 1, you eliminate the seasonality and leave yourself with the test of the retail sales threshold, unless I'm misunderstanding it."

CO-CHAIR PARISH answered that is correct. He made a distinction between [subparagraphs] (A) and (B) as being (A) or (B) - two markers of a retail seller - and indicated that under Amendment 1, (B) would state "annual gross sales of \$250,000" instead "\$100,000".

REPRESENTATIVE SADDLER [objected] to the motion to adopt Amendment 1.

[8:37:25 AM](#)

A roll call vote was taken. Representatives Drummond, Kreiss-Tomkins (alternate), Lincoln, and Parish voted in favor of Amendment 1. Representatives Talerico and Saddler voted against it. Therefore, Amendment 1 was adopted by a vote of 4-2.

[8:38:19 AM](#)

REPRESENTATIVE TALERICO expressed appreciation to the sponsor for the intent of HB 264. He referred again to the list of those communities that have established [bans on plastic bags], and he noted that for some the process took up to ten years. He applauded their efforts. He said he thinks municipalities can "do this" and are "probably moving towards that," and he said he has a lot of confidence in municipal and tribal governments. He stated, "For that particular reason, I won't be supporting the

bill." He expressed concern about the 20-cent fee and the inventory and accounting measures that would be needed.

[8:40:37 AM](#)

REPRESENTATIVE SADDLER said he would object to passage of HB 264, [as amended]. He recalled the sponsor had said that his ultimate goal was a statewide ban on plastic bags but that he thought a statewide [fee imposed on plastic bags] as being more achievable. He said setting up the apparatus for a statewide tax when the next step could be a total ban is "onerous on business and confusing and costly to the public." He said having spoken with people on both sides of the issue, it seems there are other remedies that could be at least as effective.

[8:41:41 AM](#)

CO-CHAIR PARISH noted there is one fiscal note from the Department of Revenue for a \$222,000 expenditure and \$3.3 million in revenue starting 2020. He said the next committee of referral would be the House Labor and Commerce Standing Committee.

[8:42:24 AM](#)

REPRESENTATIVE DRUMMOND asked for confirmation that under HB 264, [as amended], the 20-cent fee would be part of the purchase price rather than a tax.

CO-CHAIR PARISH confirmed the fee would be per bag.

[8:43:38 AM](#)

REPRESENTATIVE SADDLER proffered that the answer to Representative Drummond's question was in [Section 1, subsection (d)], beginning on page 2, line 20. He noted that [subsection (e)] states that [the retail seller] will report to the state [the fees collected].

CO-CHAIR PARISH offered his understanding that 25 percent would be maintained by the retail seller to offset the cost of administrating the program and for the recycling. He said as Representative Talerico mentioned earlier, a municipality would have the option of supplanting the state fee with one of its own.

[8:44:48 AM](#)

REPRESENTATIVE LINCOLN moved to report HB 264, as amended, out of committee with individual recommendations and the accompanying fiscal note.

[8:45:03 AM](#)

REPRESENTATIVE TALERICO objected.

[8:45:14 AM](#)

A roll call vote was taken. Representatives Lincoln, Drummond, Kreiss-Tomkins (alternate), and Parish voted in favor of the motion to report HB 264, as amended, out of committee with individual recommendations and the accompanying fiscal note. Representatives Talerico and Saddler voted against it. Therefore, CSHB 264(CRA) was reported out of the House Community and Regional Affairs Standing Committee by a vote of 4-2.

[8:46:03 AM](#)

The committee took an at-ease from 8:46 a.m. to 8:48 a.m.

[8:48:27 AM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:48 a.m.