

ALASKA STATE LEGISLATURE
HOUSE COMMUNITY AND REGIONAL AFFAIRS STANDING COMMITTEE

April 12, 2018

8:02 a.m.

MEMBERS PRESENT

Representative Justin Parish, Co-Chair
Representative Tiffany Zulkosky, Co-Chair
Representative John Lincoln
Representative George Rauscher
Representative David Talerico

MEMBERS ABSENT

Representative Harriet Drummond
Representative Dan Saddler
Representative DeLena Johnson (alternate)
Representative Jonathan Kreiss-Tomkins (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 410

"An Act relating to the reinstatement of Native corporations;
and providing for an effective date."

- MOVED HB 410 OUT OF COMMITTEE

HOUSE BILL NO. 333

"An Act authorizing a municipality to adopt an ordinance
prohibiting the use of cellular telephones while driving in
school zones or on school property."

- MOVED CSHB 333 (CRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 410

SHORT TITLE: REINSTATEMENT OF NATIVE CORPS

SPONSOR(S): COMMUNITY & REGIONAL AFFAIRS

04/06/18	(H)	READ THE FIRST TIME - REFERRALS
04/06/18	(H)	CRA
04/12/18	(H)	CRA AT 8:00 AM BARNES 124

BILL: HB 333

SHORT TITLE: MUNI: BAN DRIVER PHONE USE IN SCHOOL ZONE

SPONSOR(s) : BIRCH

02/07/18 (H) READ THE FIRST TIME - REFERRALS
02/07/18 (H) CRA, JUD
04/12/18 (H) CRA AT 8:00 AM BARNES 124

WITNESS REGISTER

PAUL LABOLLE, Staff
Representative Neal Foster
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 410 on behalf of Representative Foster, prime sponsor.

JAMIE MCCULLOUGH, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community & Economic Development (DCCED)
Juneau, Alaska

POSITION STATEMENT: Answered a question during the hearing on HB 410.

REPRESENTATIVE CHRIS BIRCH
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 333.

DAVID WIGHT
Anchorage, Alaska

POSITION STATEMENT: Testified during the hearing on HB 333.

ACTION NARRATIVE

[8:02:04 AM](#)

CO-CHAIR TIFFANY ZULKOSKY called the House Community and Regional Affairs Standing Committee meeting to order at 8:02 a.m. Representatives Talerico, Rauscher, Parish, and Zulkosky were present at the call to order. Representative Lincoln arrived as the meeting was in progress.

HB 410-REINSTATEMENT OF NATIVE CORPS

[8:02:47 AM](#)

CO-CHAIR ZULKOSKY announced that the first order of business would be HOUSE BILL NO. 410, "An Act relating to the

reinstatement of Native corporations; and providing for an effective date."

[8:03:03 AM](#)

PAUL LABOLLE, Staff, Representative Neal Foster, Alaska State Legislature, presented HB 410 on behalf of Representative Foster, prime sponsor. He indicated this legislation had been brought before previous legislatures. He said HB 410 would allow an involuntarily dissolved Native corporation to reincorporate as the same entity with the same assets rights and liabilities as the original corporation formed under the Alaska Native Claims Settlement Act (ANCSA). The corporations would have until 2020 to do so.

[8:03:43 AM](#)

REPRESENTATIVE TALERICO, based on discussion on this legislation in a prior legislature, recollected that there are not many corporations to which HB 410 would apply.

MR. LABOLLE said he knows of one corporation, and he acknowledged that Representative Talerico had told him of another.

[8:04:45 AM](#)

JAMIE MCCULLOUGH, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community & Economic Development (DCCED), related that since 2011, there have been approximately 19 [unintentionally dissolved Native] corporations.

[8:05:36 AM](#)

CO-CHAIR ZULKOSKY open public testimony on HB 410. After ascertaining that there was no one who wished to testify, she closed public testimony.

[8:05:57 AM](#)

REPRESENTATIVE RAUSCHER expressed support for HB 410.

[8:06:32 AM](#)

CO-CHAIR PARISH moved to report HB 410 out of committee with individual recommendations.

CO-CHAIR ZULKOSKY announced there being no objection, HB 410 was reported out of the House Community and Regional Affairs Standing Committee.

[The House Community and Regional Affairs Standing Committee subsequently brought HB 410 back before the committee on 4/17/18 in order to move the accompanying fiscal note out of committee.]

[8:06:49 AM](#)

The committee took an at-ease from 8:06 a.m. to 8:08 a.m.

HB 333-MUNI: BAN DRIVER PHONE USE IN SCHOOL ZONE

[8:08:57 AM](#)

CO-CHAIR ZULKOSKY announced that the final order of business would be HOUSE BILL NO. 333, "An Act authorizing a municipality to adopt an ordinance prohibiting the use of cellular telephones while driving in school zones or on school property."

[8:09:19 AM](#)

REPRESENTATIVE CHRIS BIRCH, Alaska State Legislature, as prime sponsor, presented HB 333. He said the proposed legislation would allow local control over traffic ordinances relating to school zones. He said the idea for HB 333 came from a constituent who volunteers as a crossing guard in a south Anchorage school district and routinely has witnessed dangerous situations involving children near schools. He indicated involvement in this issue for many years, starting at the local level. He asked the committee to support the proposed bill.

[8:11:26 AM](#)

REPRESENTATIVE RAUSCHER remarked that children walking to school seem "oblivious to traffic."

REPRESENTATIVE BIRCH said municipalities could make assessments [as to the type of ordinance needed]. He noted there is a distinction between driving and operating a motor vehicle.

[8:12:35 AM](#)

CO-CHAIR PARISH expressed support for HB 333.

[8:12:42 AM](#)

CO-CHAIR ZULKOSKY asked about the feasibility of smaller hub communities opting in.

REPRESENTATIVE BIRCH responded that the legislature is sitting as the assembly for unorganized boroughs. He said Bethel is considered a municipality; therefore, under HB 333, the City of Bethel could opt in.

[8:13:57 AM](#)

REPRESENTATIVE TALERICO stated, "Out in the unorganized borough we don't necessarily have the municipal government to do that." He said his hometown is Healy, Alaska. He remarked on the increased traffic there is in bigger cities. He expressed appreciation for HB 333 and the ability of local governments to have control.

[8:15:05 AM](#)

REPRESENTATIVE BIRCH listed the following supporters of HB 333: statewide school boards, the Anchorage School District, the American Automobile Association (AAA), and the Alaska Municipal League (AML).

[8:15:55 AM](#)

REPRESENTATIVE RAUSCHER referred to the mention of electronic devices in HB 333 and asked if that would affect the use of radar equipment in law enforcement vehicles.

REPRESENTATIVE BIRCH answered that he does not think HB 333 would affect the ability of law officers to perform their duties.

[8:17:19 AM](#)

CO-CHAIR PARISH asked Representative Birch to put on the record the distinction between driving and operating a motor vehicle.

REPRESENTATIVE BIRCH answered that driving is a more restrictive term that means someone is behind the wheel. He offered his understanding that operating a vehicle could include someone who is drunk and passed out in the passenger's seat. He said under HB 333, municipalities could decide on which term their ordinances would apply.

CO-CHAIR PARISH offered his understanding that if a municipality enacted a broad restriction, then a teacher who got in his/her vehicle after school and used a cell phone while running the motor to warm up the vehicle could be in violation of an ordinance. He speculated that a law enforcement officer would most likely give the person the benefit of the doubt. Notwithstanding that, he said he would encourage municipalities to use the more restrictive driving definition.

REPRESENTATIVE BIRCH replied, "I'm a big believer in reasonable people."

[8:19:51 AM](#)

CO-CHAIR ZULKOSKY said the committee would hear invited testimony.

[8:20:06 AM](#)

DAVID WIGHT relayed that he has spent five years working the intersection of Chinook and Gregory, the entrance to Bowman Elementary School. He said the school has crowded approaches to traffic patterns, and he must pay close attention not only for the safety of the school children, but also for his own safety. He emphasized that he favors the "while driving" distinction. He said he thinks parents, including himself, need the opportunity to find their children. He said, "Operating might throw a wrinkle into that, whereas driving should not. All you have to do is park your car in a school zone or on the side of the road and talk to them, whereas driving you need to pull attention in a school zone to be safe."

MR. WIGHT said he worked hard with principals to get voluntary compliance. He said, "We got 90-plus percent compliance. But the remaining group just didn't see the need to do it, and they're the ones that had some of the dangerous activities, both by lack of attention and some by just being independent and feeling that they can do what they want to despite of the risk presented to people in the school zone." He said he has seen people driving over the curb where children were standing because they were talking on their mobile phones. Further, he has seen people run stop signs and has had people almost run into him in the intersection a number of times because they were not paying attention. He said the worst incident was when he had thought quickly to avoid a child getting hit and he ended up getting hit from behind. The person who hit him said it was an

important phone call. Mr. Wight said he feels it is important for people to take a break [from their phone] for the five or ten minutes they are in a school zone, because the safety of children is paramount.

MR. WIGHT said he has worked "with the schools and through legislative funding" to improve traffic patterns. He opined that he has done all he can without removing the hazard of distraction while driving through a school zone or on school property.

[8:24:23 AM](#)

CO-CHAIR PARISH relayed he was a crossing guard two years ago, and it can be scary with little kids and adults not paying attention. He offered his understanding that Mr. Wight had indicated his preference for the term "driving" a motor vehicle rather than "operating" one.

MR. WIGHT answered that is correct. He expressed that his experience has shown that the risk is in [using a device] while driving. He said people need to be able to pull over and call their children from their mobile phones; therefore, he opposes the inclusion of "operating" the motor vehicle.

[8:26:20 AM](#)

REPRESENTATIVE RAUSCHER asked if talking on a mobile phone while in a car is "illegal now" or could be "considered illegal by the municipality in light of this legislation."

[8:26:56 AM](#)

REPRESENTATIVE BIRCH answered that talking on a mobile phone while driving currently is legal in Alaska; it is illegal to watch video while driving. He said HB 333 would relate to school zones and give municipalities the option to "make that against the law in a school zone or on school property."

REPRESENTATIVE RAUSCHER asked if it is legal to pull over in a vehicle to use a mobile phone.

REPRESENTATIVE BIRCH answered yes. He added, "Depending on the municipal determination."

[8:28:19 AM](#)

CO-CHAIR PARISH moved to adopt Amendment 1, as follows:

On page 1, line 7:

Following "person"
Delete "operating"
Insert "driving"

[8:29:07 AM](#)

CO-CHAIR ZULKOSKY objected for the purpose of discussion. She asked the bill sponsor if he had a position on whether or not the language should state "driving" or "operating".

REPRESENTATIVE BIRCH answered, "It's just a matter of getting the maximum flexibility to the communities. But based on the testimony and the discussion, yeah, I mean, if somebody pulls off to the side of the road and is having a conversation in an operating mode, I think that would be reasonable."

[8:29:48 AM](#)

CO-CHAIR ZULKOSKY removed her objection.

[8:30:13 AM](#)

REPRESENTATIVE RAUSCHER objected for the purpose of discussion. He noted that the bill title states "**while driving in school zones**", while the language in the body states "operating a motor vehicle". He asked for an explanation.

REPRESENTATIVE BIRCH answered as follows:

The legal assessment is to have, basically, the full flexibility for the municipalities that are actually going to ultimately do that. And so, if you have ... kind of a broad description, ... then the local communities can decide how constrained they want to make that."

[8:30:56 AM](#)

REPRESENTATIVE RAUSCHER removed his objection.

[8:31:14 AM](#)

The committee took a brief at-ease at 8:31 a.m.

[8:31:58 AM](#)

REPRESENTATIVE RAUSCHER again objected to Amendment 1 for the purpose of discussion. He indicated that he understands the intent of Amendment 1, but he questioned whether it would overly constrain the municipalities.

CO-CHAIR ZULKOSKY asked, "If we were to provide an opportunity to have greater latitude, as the bill before us would allow, how would municipalities, upon opting in, be able to further define that for clarity?"

[8:33:30 AM](#)

REPRESENTATIVE BIRCH stated his understanding that municipalities have the latitude to construct a description as broad or narrow as they choose. He indicated that he has no problem with Amendment 1; however, it would constrain what local governments can do. He said the intent [of HB 333] was to give the most latitude to the local governments.

[8:34:41 AM](#)

CO-CHAIR PARISH related that a friend had had too much to drink and was "sleeping it off" on the passenger side of the vehicle, which was not running, and that was considered operating a motor vehicle. He said that does not seem reasonable, but it is the way the law was interpreted. He said he does not like ambiguity, and "operating a motor vehicle" seems more ambiguous." He said it seems reasonable to him for someone to pull off the road, turn off the vehicle, and then use his/her mobile phone while in the car. He indicated he would like to "spare" elected local officials "the unnecessary ambiguity of 'operating' versus 'driving'." He said he thinks "driving" gets to "the substance of the safety issue."

[8:36:27 AM](#)

REPRESENTATIVE RAUSCHER removed his objection.

CO-CHAIR ZULKOSKY [objected to Amendment 1], because the intent [of HB 333] was to give as much latitude to municipalities to make their own determination.

[8:37:54 AM](#)

REPRESENTATIVE TALERICO said that at one school in Anchorage, there is a pass-through lane and a parking lane to get to the gymnasium. He said the last time he was there, several occupants [of vehicles] were on their mobile phones, which he said distracted them from watching what was happening, and they would pull out at any moment. He said he thinks he understands [Co-Chair Zulkowsky's] point and agrees with her; therefore, he said he thinks it is important to ensure that municipalities have the latitude "to make those decisions."

[8:39:32 AM](#)

REPRESENTATIVE RAUSCHER related that he would likely vote against Amendment 1 in order to give the latitude to the municipalities.

[8:40:16 AM](#)

CO-CHAIR PARISH offered his understanding that the only people not "captured by this amendment" are those who are actually parked, because "even if you've got your foot on your break you are still driving your vehicle." He said the question is whether limitation of mobile phone use will apply to those driving or those operating a vehicle.

[8:41:03 AM](#)

REPRESENTATIVE LINCOLN suggested there is good reason for the state to maintain uniform rules regarding traffic laws, because without them, people could inadvertently break the law. He said he likes Amendment 1. He expressed support for Mr. Wight's work protecting children, but "it does seem like the actual risk is around driving while on phone."

CO-CHAIR ZULKOSKY asked Representative Rauscher if he maintained his objection.

[8:42:14 AM](#)

REPRESENTATIVE RAUSCHER said he thinks he agrees with Representative Lincoln.

[8:42:26 AM](#)

REPRESENTATIVE BIRCH noted that there was another committee of referral, and he offered to do some additional research between now and then to address some of the concern that had been

expressed. He reiterated his intent to give the maximum flexibility to local governments.

[8:43:01 AM](#)

The committee took an at-ease from 8:43 a.m. to 8:45 a.m.

[8:45:34 AM](#)

REPRESENTATIVE RAUSCHER removed his objection to the motion to adopt Amendment 1.

CO-CHAIR ZULKOSKY removed her objection to the motion to adopt Amendment 1. There being no further objection, Conceptual Amendment 1 was adopted.

[8:46:15 AM](#)

CO-CHAIR ZULKOSKY opened public testimony on HB 333. After ascertaining that there was no one who wished to testify, she closed public testimony.

[8:46:54 AM](#)

CO-CHAIR PARISH moved to report HB 333, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 333(CRA) was reported out of the House Community and Regional Affairs Standing Committee.

[8:47:24 AM](#)

The committee took an at-ease from 8:47 a.m. to 8:49 a.m.

[8:49:13 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Community and Regional Affairs Standing Committee meeting was adjourned at 8:49 a.m.