

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

January 22, 2018

1:04 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Zach Fansler, Vice Chair
Representative Jonathan Kreiss-Tomkins
Representative Gabrielle LeDoux
Representative David Eastman
Representative Chuck Kopp
Representative Lora Reinbold

MEMBERS ABSENT

Representative Charisse Millett (alternate)
Representative Louise Stutes (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."

- HEARD & HELD

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
 04/27/17 (H) Moved HCS CSSB 63(CRA) Out of Committee
 04/27/17 (H) MINUTE(CRA)
 04/28/17 (H) CRA RPT HCS(CRA) 3DP 3NR 1AM
 04/28/17 (H) DP: TALERICO, DRUMMOND, PARISH
 04/28/17 (H) NR: WESTLAKE, SADDLER, RAUSCHER
 04/28/17 (H) AM: FANSLER
 01/22/18 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

SENATOR PETER MICCICHE
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During the hearing of HCSCCSB 63(CRA), presented the legislation as prime sponsor.

RACHEL HANKE, Staff
 Senator Peter Micciche
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: During the hearing of HCSCCSB 63(CRA), offered a sectional analysis.

EMILY NEENON, Government Relations Director
 American Cancer Society, Cancer Action Network
 Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS CSSB 64(CRA), testified.

PATTY OWEN
Juneau, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

JAYNE ANDREEN
Alaska Public Health Association
Douglas, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

CARMEN LUNDE
Kodiak, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified in opposition to the legislation.

BETTY MacTAVISH
Kodiak, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified.

GABRIELE LARRY
Fairbanks, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified.

STEVEN GREENHUT, Western Region Director
R Street Institute
Sacramento, California

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified regarding vaping.

GREGORY CONLEY, President
American Vaping Association
Medford, New Jersey

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified regarding vaping.

JEFF STIRE, Senior Fellow
Consumer Choice Center
Washington, D.C.

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified regarding vaping.

JOSHUA SILAS

Soldotna, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified regarding vaping.

JOE DARNELL

State of Alaska Behavioral Health Tobacco Enforcement

Department of Health & Social Services

Anchorage, Alaska

POSITION STATEMENT: During the hearing HCS SB 63(CRA) answered questions.

JOSEPH YOURKOSKI

Nikiski, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified on behalf of the American Cancer Society Cancer Action Network.

DANIEL PHUNG, Regional Representative

5 Pawns

Sacramento, California

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified.

JAMIE MORGAN, Senior Director

Advocacy and Policy Campaign

American Heart Association

Sacramento, California

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified in support of the legislation.

JAMES SQUYRES

Rural Deltana, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered opposition to the legislation.

DIANA REDWOOD

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

LARRY TAYLOR, JR.,

Ketchikan, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

KELLY LARSON

Willow, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

JENNY OLENDORFF

Palmer, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

NOEL CROWLEY BELL

Palmer, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

ELIZABETH RIPLEY

Mat-SU Health Foundation

Wasilla, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

BECKY STOPPA

Wasilla, Alaska

POSITION STATEMENT: During the hearing of HCS CSSB 63(CRA), offered support for the legislation.

SUSAN SMALLEY, Volunteer

American Cancan Society

Kenai, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

CHRYSTAL SHOENROCK, Owner

4 Lands Bar

Nikiski, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified.

JOHNA BEECH

Kenai, Alaska

POSITION STATEMENT: During the hearing of HCS CSSB 63(CRA), offered support for the legislation.

PAMELA HOWARD

Soldotna, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

PAMELA OLSON

Nikiski, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

BENJAMIN SCHMAUSS

Sitka, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

PENNY PALMQUIST

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS CSSB 63(CRA), testified in support.

EDELTRAUD RODEWALD

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS CSSB 63(CRA), testified.

GEORGE STEWART

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), offered support for the legislation.

WILLIAM HARRINGTON

Spenard, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified in support for the legislation.

MARG STONEKING, Executive Director

American Lung Association-Alaska

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified in support of the legislation.

KRISTIN MILLER

Anchorage, Alaska

POSITION STATEMENT: During the hearing of HCS SB 63(CRA), testified.

ACTION NARRATIVE

[1:04:54 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:04 p.m. Representatives Fansler, Reinbold, Kopp, and Claman were present at the call to order. Representatives Eastman and LeDoux arrived as the meeting was in progress.

CHAIR CLAMAN offered the following:

Before we hear SB 63, our first and only order of business today, I want to make a few comments about the committee and the procedure we will follow moving forward. John Adams, our second president, reflected on the importance of the rule of law and stated that "we are a government of laws, not of men." And I think if he were alive today, Adams would undoubtedly have said "we are a government of laws, not of men and women."

As chair of this committee, I believe it is vital that we show respect for all who come before this committee to testify, including those with whom we may disagree. Indeed, how we show respect for those with whom we disagree is a measure of our commitment to strengthen the very democratic institutions that are central to an effective government. In an era of increasingly polarized government on a national level, Alaskans demand that we, as their legislators, be models of civility and respect that is often lacking on the national level. Mason's Manual Section 120 confirms that our language should be "temperate, decorous, and respectful."

In that context, as chair of this committee, I will not tolerate attacks on members of the executive branch, members of the judicial branch, or members of the legislative branch. All three branches of government are deserving of our respect when they appear before this committee, just as members of the public are deserving of our respect when they appear before this committee.

Part of that respect includes respecting the chair in managing this committee in an efficient and fair manner fully consistent with the Uniform Rules and Mason's Manual. Mason's Manual Section 1 gives the chair authority to manage the affairs of the committee

in an efficient and orderly manner to allow us to address the issues before us.

I am confident that, moving forward, all members of this committee will be able to participate in our hearings in a fair and respectful manner.

SB 63-REGULATION OF SMOKING

1:07:15 PM

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

1:07:52 PM

SENATOR PETER MICCICHE, Alaska State Legislature, advised that HCS CCSB 63(CRA) is referred to as the "Take It Outside Act," and related that more people in Alaska die annually from the effects of tobacco than of suicide, motor vehicle crashes, homicide, and chronic liver disease, all combined. This is not a sugar tax, he said, this legislation is about protecting Alaska's employees from the effects of smoke in the workplace, and it is not about limiting a smoker's ability to make their own choices in consuming tobacco and tobacco products. He noted that he ran this legislation through his internal check as to whether it protects Alaskans' freedoms and liberties, but he also had to relate that check to the effects on public safety and health and the costs of tobacco-related illnesses in this state. He noted that he thinks of this legislation in similar roles such as, establishing speed limits, regulating driving under the influence, and those types of laws. The financial burden of caring for those that fall victim of tobacco-related illness due to secondhand smoke costs the State of Alaska tens of millions of dollars annually. When pondering the fact that over one-half of the population in Alaska is currently protected with similar local ordinances, such as in Bethel, Anchorage, Juneau, Barrow, Dillingham, Haines, Skagway, Petersburg, and more, there is also the fact that one-half of the state does not have the statutory ability or the ordinance powers of health powers to protect themselves. He reminded the committee that this legislation does not prohibit outdoor smoking, except where it affects others, such as in building entrances and exits or air intakes. This legislation does not legislate the employment

of smokers and non-smokers, but rather, local governments will retain its ability for more restrictive local provisions than under the statewide law. It also does not remove the right of a smoker to smoke, but it limits the smokers' ability to adversely affect the health of Alaska's non-smoking employees. The intent of the bill is simply to "take it outside of the workplace," to protect those who may not have a choice as to where they are employed.

[1:10:52 PM](#)

RACHEL HANKE, Staff, Senator Peter Micciche, Alaska State Legislature, paraphrased the sectional analysis, as follows:

Section 1

Provides a statement of legislative intent which is that nothing in this Act will waive the state's immunity from liability provided for in state law, nor to alter applicable law relating to possible liability of manufacturers, dispensers, or others as a result of smoking or using tobacco or e-cigarettes within an enclosed area.

Section 2

Adds a new article to AS 18.35 that

AS 18.35.301 - prohibits smoking in certain places, including specified enclosed areas and at or near specified outdoor areas;

provides limited exceptions to the smoking prohibitions for retail tobacco and ecigarette stores, for enclosed, marked, and vented transit areas, for private residences, for specified vehicles and vessels, for stand-alone shelters and for licensed marijuana establishments;

AS 18.35.306 - requires notices of smoking prohibitions and fines;

AS 18.35.311 - prohibits employers and building owners or managers from permitting smoking or supplying smoking accessories in place where it is prohibited;

AS 18.35.316-35.321 - requires the commissioner of health and social services or the commissioner's designee to administer and enforce the requirements under the Act and to provide public education about the requirements;

AS 18.35.326 - prohibits an employer, or owner or operator of a vehicle from retaliating for initiating or cooperating with enforcement of the Act;

AS 18.35.331 - allows a municipality to impose additional smoking restrictions and duties;

Sections 3 - 4

AS 18.35.340(a) & (b) - amends cross-references to conform to the new and repealed provisions.

Section 5

AS 18.35.340(c) - amends cross-references and provides new fines for violations in which the commissioner has filed a civil complaint.

Section 6-7

AS 18.35.341(a) & (b) - amends cross-references to conform to the new and repealed provisions.

Section 8

AS 18.35.341(c) - amends cross-references and provides individuals found guilty of a violation as defined in Title 11 are subject to new fines.

Section 9-12

AS 18.35.341(d), 35.342, 35.343 & 35.350 - Amend cross-references to conform to the new and repealed provisions.

Section 13

AS 18.35.399 - Defines terms used in the Act.

Section 14

Repeals specified provisions related to smoking in AS 18.35.

Section 15

Uncodified law - specifies that the changes made by secs. 2 - 13 of the Act apply to violations or compliance failures that occur on or after the effective date of secs. 2 - 13 of the Act.

Section 16

Uncodified law - authorizes the Department of Health and Social Services to adopt necessary regulations to implement the Act. The Regulations may not take effect

before the effective date of the relevant provision being implemented.

Section 17

Provides for an immediate effective date for sec. 16.

Section 18

Provides for an October 1, 2017 effective date for the remainder of the Act.

[1:13:21 PM](#)

REPRESENTATIVE LEDOUX offered a scenario of a sole practitioner/owner of a restaurant or bar who runs it with zero employees and asked whether the sole practitioner is exempt.

SENATOR MICCICHE noted that he would have to perform research because he does not know how a bar could be run with zero employees.

REPRESENTATIVE LEDOUX interjected, "Run it yourself."

SENATOR MICCICHE said he would like to get back to Representative LeDoux on that question.

[1:14:15 PM](#)

REPRESENTATIVE LEDOUX offered a scenario wherein someone requires a home healthcare provider in their residence and asked whether the person receiving home healthcare could smoke while the healthcare provider was in their home.

SENATOR MICCICHE responded that the original bill read that it was essentially a non-smoking residence all of the time, but after public testimony was considered, he amended the bill to read that it would only be [non-smoking] while that healthcare provider was in the home.

REPRESENTATIVE LEDOUX surmised that the person could not smoke in their own home.

SENATOR MICCICHE answered that the healthcare provider was an employee of either the state or a private provider in that home, and this bill is designed to protect working Alaskans from the effects of second-hand smoke. He acknowledged that Representative LeDoux brought up an excellent point and that

people had also questioned limiting smoking in bars. Except, he pointed out, there are employees in all lines of work subjected to the effects of second-hand smoke all over the state. It is his belief that healthcare providers should be protected from the effects of second-hand smoke because they attended college and obtained a degree in order to offer a certain level of care, and they did not sign up to be affected by second-hand smoke. He explained that it is a temporary restriction solely while that homecare employee is working within the residence, which is important.

1:15:52 PM

REPRESENTATIVE LEDOUX referred to Senator Micciche's opening presentation regarding protections in some areas of Alaska, and she said that she assumed the protections did not exist in other areas because the communities did not want to limit smoking in the workplace.

SENATOR MICCICHE related that there are two-parts to his answer and clarified that the state does not have the authority because it does not have health powers guaranteed under the constitution or under Title 29. Secondly, he offered, this has been an ongoing effort for many years, and far less than one-half of the population in the state is protected, and those communities not protected are waiting to see what happens with this legislation. He advised that he is visited, regularly, by the few municipalities that do not have a smoke-free workplace [ordinances/regulations] who are largely in support. These communities have seen progress with the bill throughout the years, and he noted that it was passed by a conservative Senate on three occasions. Those communities believe there will probably be some results, so they have stopped with their local efforts to see the result from the legislature, he advised.

1:17:16 PM

REPRESENTATIVE EASTMAN referred to HCSCCSB 63(CRA), pages 2-3, and asked how the varying distances were determined, and whether science or personal preference drove those distances.

SENATOR MICCICHE advised that when thinking about downtown Juneau with smoke-free workplace laws in place and Juneau residents cannot smoke indoors. Around the state, he offered, in some of the more densely populated area around the state, the distance simply cannot be determined without impacting others more so than that business itself. There is a 10-foot access

limit for non-smokers into that business, but it is limited to where it does not impact other businesses, and that limit was settled on throughout the years [of discussions]. The 20-foot limit is something that would "largely, directly, sort of," ingest that smoke into the building itself; therefore, windows and ventilators, and such, were given additional clearance. The reasonable distance is probably (audio difficulties) give out the soft footprint of this bill, and he offered that it is purposely designed, complaint driven, and it carries light consequences for those who may have a problem complying. He opined that there have been three fines in the 10 years that Anchorage enacted a similar ordinance. The reasonable distance is probably the best application of what will keep people protected when people have to walk through a large quantity of tobacco smoke to get into a building, or if the business itself is bringing that smoke into the building and impacting its employees, he advised.

[1:19:36 PM](#)

REPRESENTATIVE EASTMAN pointed to the language, "reasonable distance determined by the owner or operator," and asked what criteria would be used to determine what makes it a reasonable distance or an unreasonable distance. Currently, if an owner/operator says, "Don't smoke on my property," he questioned whether they already have that right or whether this bill is granting them a new right. In the event it is, he asked whether that is reasonable now going to (audio difficulties) onto someone else's property.

[1:20:43 PM](#)

SENATOR MICCICHE referred to HCS CSSB 63(CRA), [AS 18.35.302(c)(1), page 2, lines 28-30, which read as follows:

- (c) An individual may not smoke outdoors
 - (1) within 10 feet of playground equipment located at a public or private school or state or municipal park while children are present;

SENATOR MICCICHE advised that the phrase "while children are present" was added because it would be unreasonable if the children were not present. He referred to HCSCSSB 63(CRA), [AS 18.35.302(c)(2), page 2, line 31, and 18.35.302(c)(2-4)(A)(B)(C), page 4, lines 1-11, which read as follows:

(2) in a seating area for an outdoor arena, stadium, amphitheater;

(3) at a place of employment or health care facility that has declared the entire campus or outside grounds or property to be smoke-free;

(4) within

(A) 10 feet of an entrance, open window, or heating or ventilation system air intake vent at an enclosed area at a place where smoking is prohibited under this section; or

(C) a reasonable distance, as determined by the owner or operator, of an entrance, open window, or heating or ventilation system air intake vent of

[1:21:38 PM](#)

SENATOR MICCICHE commented that "in most laws there is just a place where everything does not fit," and a reasonable distance is often defined by law as a "common sense approach" to what that distance should be, and he could not see that it affects other property owners. In the event two bars were sitting next to each other and the two doors were adjoining, that is an issue that must be worked out, he advised.

[1:22:11 PM](#)

REPRESENTATIVE KOPP referred to [AS 18.35.302(h)(1), page 4, lines 20-22, which read as follows:

(h) Nothing in this section prohibits an individual from smoking

(1) at a private residence, except a private residence described in (b) of this section or while a healthcare provider is present;

REPRESENTATIVE KOPP surmised that the language makes clear that it is not regulating the distance from the front door of a person's house. He described that a person could "smoke away" on their own property unless there was something unique about that situation.

SENATOR MICCICHE noted that Representative Kopp was absolutely correct because this bill was designed in such a manner so that where a person chooses to smoke does not impact someone's else's right to breathe clean air while working.

[1:23:15 PM](#)

REPRESENTATIVE LEDOUX offered a scenario wherein an Uber driver and their passenger would like to smoke.

SENATOR MICCICHE deferred to Emily Neenon.

[1:24:07 PM](#)

EMILY NEENON, Government Relations Director, American Cancer Society, Cancer Action Network, responded that, under law, the Uber driver is required to offer smoke-free transportation because the Uber driver was providing transportation to the public. She described that enforcement for the implementation of HCS CSSB 63(CRA) is based upon self-reporting and that no one will be out looking for problems.

REPRESENTATIVE LEDOUX described Ms. Neenon's explanation as confusing because she thought that if a law was passed, it would then be enforced. She referred to the previous response that the language is in the law and probably no one will do anything about that law, is problematic, she offered.

SENATOR MICCICHE clarified that that is not what "we said at all. What we said is that we have a law" that purposely has a light footprint, it is complaint driven and it will be enforced. There will not be a group of people from the Department of Environmental Conservation (DEC), the Department of Health and Social Services (DHSS), or anyone else moving from facility to facility trying to catch a person smoking, he pointed out. The law is quite clear that it is expected that smoke-free work places are provided for Alaskan employees. However, in a case such as the Uber driver, if the driver is smoking a cigarette in their Uber car while no one is present, the driver would have to complain on themselves in order for it to activate any potential compliance action, which does not appear to be logical, he remarked. The light footprint, he advised, is more of a statement but it has the potential for compliance action if someone chooses to ignore the law.

[1:26:41 PM](#)

REPRESENTATIVE LEDOUX surmised that the legislation is to protect employees and asked why not simply exempt the Uber driver.

SENATOR MICCICHE commented that a member of the House Judiciary Standing Committee has the right to offer an amendment, but that he has spent a lot of time over the last several years listening to hundreds of peoples' testimonies, and the bill has been significantly amended to make it work. While the bill may not be perfect, it is fairly close at this point, he remarked.

[1:27:54 PM](#)

REPRESENTATIVE EASTMAN referred to the provision regarding smoking in a residence and, in theory, the residence itself is generally not a place prohibiting someone from smoking. He referred to [AS 18.35.301((b)(7), pages 2, lines 26-27] which read as follows:

(7) on a vessel operating as a shore-based fisheries business under AS 43.75.

REPRESENTATIVE EASTMAN noted that the language specifically exempts vessels from actually having that exemption. He offered a scenario where someone owned a vessel that was also his residence and they used it for fishing, and asked whether because he uses it for fishing, he is no longer allowed to smoke at his residence. He asked the rationale behind the language.

SENATOR MICCICHE related that he could spend a lot of time finding situations such as that in any law passed in this building, and he could find an extreme approach to a problem in a bill. The Alaska Statute books would be many times the size they are right now if the legislature tried to work out every single situation. As to the vessel exemption, he explained that some employees work on boats in 20-foot seas and the state would not want people out on the deck enduring acute risk [to smoke] when they should just stay indoors in certain situations and smoke in the cabin. This, he offered, is a chronic problem that will impact the person in the long-term, but it is believed that that was a better choice for the vessels in the state. He described the scenario wherein the vessel is a residence and also a work vessel as an interesting question and suggested that if Representative Eastman believed it was important to clarify in that "rare case," he would be interested to see his solution.

[1:31:40 PM](#)

CHAIR CLAMAN opened public testimony on HCS SB 63(CRA).

SENATOR MICCICHE thanked Chair Claman for hearing this legislation and noted that he has struggled with this bill, but the reality is that there are certain aspects employees should be protected against when it comes to public safety, especially with smoking being the number one cause of avoidable diseases and deaths in this state. That is the reason for his choice and he asked how many non-smoking Alaskans must suffer unnecessarily before the state decides to do something about the problem.

[1:32:10 PM](#)

PATTY OWEN advised that she is a lifelong Alaskan with children and grandchildren being raised in Alaska, a public health and safety advocate, and a former smoker. She noted that when she thinks back to the early days of smoking in airplanes and the workplace, she is horrified given the current information. She said that she strongly supports HCS CSSB 63(CRA) as this is a public health policy, and it is the state's responsibility to pass this important legislation and protect the public's health statewide. Tobacco prevention efforts have come a long way in Alaska and this legislation will continue the work, she remarked.

[1:33:16 PM](#)

JAYNE ANDREEN, Alaska Public Health Association, advised that it goes without saying that the Alaska Public Health Association strongly supports HCS CSSB 63(CRA) and encourages the committee to pass it through this committee. Ms. Andreen referred to the 1/5/17, letter directed to Senator Peter Micciche from Brian A. King, PhD, MPH, Deputy Director for Research Translation, Office on Smoking and Health, Centers for Disease Control and Prevention, and advised that the reasons for support are listed within the above-mentioned letter. Personally, she said, she was raised in a family of smokers, her father had eight brothers, "his father as well as four of his five brothers" who died from lung cancer. Fortunately, her father and some uncles all managed to quit smoking in time and are now living into their late 80s and early 90s. She related that she started smoking as a teen-ager because she wanted "to be cool," and in the mid-1980s she was the director of a non-profit in Homer, and her staff asked her whether she could take her smoking outside, and she was fine with going outside. Then, in 2000, her husband was advised that a spot had been discovered on his chest x-ray and for a week they lived through hell, but it turned out to be a fluke on the film. That was the final event for her to quit smoking and one of the things she had to do was track when and

where she smoked. Except, she noted, Juneau has a clean indoor air policy and she could only smoke in her home and car, which then became an ash tray. After she had stopped smoking for a year, she bought a new car, and pointed out that because there were so few places she could smoke, it made quitting smoking a whole lot easier. This legislation is not just about secondhand smoke, but it is about developing and supporting people to be smoke-free, she remarked.

[1:35:44 PM](#)

REPRESENTATIVE LEDOUX asked whether Ms. Andreen believes all smoking should be illegal.

MS. ANDREEN replied, "Absolutely not," because smoking is a personal choice, but it is also important that the state ensure that non-smokers are not impacted by secondhand smoke.

[1:36:10 PM](#)

MS. NEENON offered a history of the issue and what has changed in her 20-years of working on this issue in Alaska. Bethel was the first community in Alaska to pass a smoke-free workplace law in 1998, and that momentum has continued to the point that approximately one-half of the state is now covered. In 2006, the United States Surgeon General's report came out as to secondhand smoke and it definitively stated that there is no safe exposure level to secondhand smoke and that ventilation does not work. Although, she commented, ventilation may possibly remove some smells and possibly visible smoke or odors, but the carcinogens and ultra-fine particles in the smoke cannot be removed. That report confirmed that the best option is to just "take it outside" to protect workers and the public. Another "big thing we know" is that the biggest impact from smoke-free laws going into to effect is fewer heart attacks. The studies of smoking-free laws going into place, first prepared 10-years ago, showed a 15-20 percent drop in hospital admissions from heart attacks and pregnancy complications. Initially, she offered, a couple of doctors in Montana noted that their emergency room was not as busy as it had been previously, they looked into it, and the findings of these doctors' studies have been replicated around the world by offering an impact on cardiovascular health. The current situation with e-cigarettes is that non-users can be exposed to the same harmful chemicals found in e-cigarettes. She pointed out that she is not comparing e-cigarettes to secondhand smoke,

but rather the comparison is to the standard of clean air and working to protect all workers in the public.

1:38:59 PM

CARMEN LUNDE advised that she is affiliated with the Kodiak Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR) and it is opposed to HCS CSSB 63(CRA) because it strongly believes that business owners have the right to their own choices without government, on a federal, state, or local level, mandating laws that force business owners to go against their wishes. She described this as a slippery slope when government takes "our freedom of choice away." Smoking bans violate private property rights because only the bar owner should decide the smoking policies on their own premises in that they know what is best for their own businesses and how to work out their own compromises and solutions, she advised. The community of Kodiak took a common-sense approach wherein three-quarters of the bars in Kodiak are non-smoking and twenty-five percent are smoking bars, thereby, giving every adult free choice to go to the bar of their own choosing. This demonstrates free choice (audio difficulties). When government declares something to be illegal, it is chipping away at "our rights" as individuals. She described the bill as targeted toward bars because within all of the other places mentioned in the proposed ban, no one has smoked for many years. The "self-satisfied individuals" who feel entitled to force their views upon the public's health, choices, behaviors, and social values like to impose their laws that program the lives of individuals and disregards the value of [our freedom of choice] that many people hold most precious, she remarked. In the early 1840s, President Abraham Lincoln advised that prohibition goes beyond the bounds of freedom in matters of (audio difficulties) control a man's appetite by legislation and make a crime out of things that are not crimes. She advised that a prohibition law strikes at all of the sensibilities upon which our government was founded, she advised.

1:41:09 PM

BETTY MacTAVISH advised that she is a teacher, parent, and grandparent in Kodiak. (audio difficulties). She said that she has been diagnosed (audio difficulties) and she has never smoked a day in her life, yet the black spots on her lungs make her vulnerable to respiratory disease. During her years as (audio difficulties) had pneumonia every February due to the financial stress of missing work and the medical costs. The burden of

choice has been working to (audio difficulties) and the burden now with the committee, it has the opportunity to provide safe working environments for Alaskans. The Kodiak City Council, the Kodiak Island Borough Assembly, and the Kodiak Island Borough School District all unanimously passed resolutions of support for this legislation. Fear is the answer to why Kodiak has not passed this workplace ordinance locally, fear of reprisal against the Kodiak elected officials from citizens, and neighbor versus neighbor in a community so small. (Audio difficulties) Alaskans are waiting for the legislature to protect workers' health by passing HCS CSSB 63(CRA) quickly because lives are at stake, she said.

[1:43:02 PM](#)

GABRIELE LARRY advised that she was once a smoker and now has allergies toward smoke, and her children and grandchildren also have allergies that have caused many medical issues. She stressed that she endorses the right for everyone to breathe clean air, whether in a bar, hospital, or airplane. Thirty-four years ago, she gave birth to her daughter and shared a room with a woman who brought her cigarettes and the baby into the room and smoked, and Ms. Larry asked the hospital to let her and her baby discharge. Currently, the hospital has a smoke-free zone and it does not allow smoking on the premises. As a business owner, she said that she has employees who are trying to quit smoking and those who smoke, and she expects them to be respectful and keep their smoking away from those who are trying to quit that addiction. She advised that her brother recently had one lung removed due to cancer and is still going through treatment (audio difficulties) smoking. She emphatically asked smokers to consider stopping, noting that "we need to help everybody along the way" because, as a previous smoker, she knows that as soon as the smoker smells that smoke it draws them near a cigarette. She expressed that HCS CSSB 63(CRA) should be passed because it is the right thing to do, and because clean air is a right for everyone, she stressed.

[1:45:37 PM](#)

STEVEN GREENHUT, Western Region Director, R Street Institute, advised that the R Street Institute performs work in the area of harm reduction. For example, it recommends that states and localities eliminate e-cigarettes and other vapor products from under the umbrella of tobacco products and their bans, and to rather recognize the potential for a much safer alternative to combustible cigarettes. He offered that e-cigarette use reduces

harm, and HCS CS 63(CRA) discourages smokers from switching to much safer vaping because it does not make a clear distinction between vaping and smoking. Vaporers understand that vaping is not allowed in all indoor spaces, but there should be someplace for them to vape. In fact, indoor vaping places would encourage more smokers to switch, especially in cold climates like Alaska. He noted that the previous testifier pointed out that smokers smell that old smoke and possibly get back into the habit; therefore, it is wrong to segregate vaporers into the category of smokers because it is counterproductive. The alternative to blanket legislation is allowing property owners and businesses to determine their own vaping policies. Vaporers should not be forced to share the same space with people who are smoking as it undermines their ability to stay smoke-free, he said. (Audio difficulties) vaping can be annoying to others but it is not dangerous, which is why leaving it up to the property owners is the best way to resolve this issue, and vaping is a useful tool to help people break the dangerous habit of smoking, he explained.

[1:47:43 PM](#)

GREGORY CONLEY, President, American Vaping Association, urged the committee to either reject HCS CSSB 63(CRA) or amend it to remove the inclusion of smoke-free vapor products and the bill's definition of smoking. Vapor products do not involve fire, smoke, or tobacco (audio difficulties). As a result, the emissions generated by vapor products dissipate into the air and there is virtually no resemblance to the amalgamation of toxic chemicals generated by combustible cigarettes. There is simply nothing of concern to "protect workers from," and vaporers are not arguing for the unfettered right to vape wherever they wish. Etiquette matters, and business owners should be able to decide their own vaping policies, he reiterated. A study published last year in the Journal of Health Economics revealed the unintended consequences of these policies, such as banning smoking or vaping. That study found that in states where (audio difficulties) restrictions were in place, there was as much as 30 percent higher cigarette use (audio difficulties). The researchers theorized that this would prove to be a false and misleading message sent by the user restriction. In the event legislators felt (audio difficulties) dangerous enough to ban them indoors, they might as well have continued to smoke. In the United Kingdom, the National Health Service, Board of College of Physicians, and public health officials have all concluded that vaping poses no legitimate risk (audio difficulties), and they urged employers to voluntarily (audio

difficulties) who want to switch by allowing its usage indoors or in certain areas. Defining the use of a smoke-free product as smoking does not comport with the science or common sense. He asked that the committee amend vaping products out of this legislation.

[1:49:55 PM](#)

JEFF STIRE, Senior Fellow, Consumer Choice Center, advised that he had spent more than 15 years working on public health issues and advancing public health policies and he applauds this committee for its work on protecting public health. He offered his appreciation for HCS CSSB 63(CRA)'s light footprint; however, he was concerned about the definition of smoking to include a bill that people use to quit smoking, which is the use of e-cigarettes that has no combustion. Public health (audio difficulties) acknowledges, and he agrees, that it is hard to stop smoking and many smokers are turning to e-cigarettes to help them stop. Public Health (audio difficulties) stated that in 2016, it was estimated that two-million consumers (audio difficulties) had used these products and completely stopped smoking, and 400,070 of the people used them to stop smoking. The evidence is increasingly clear that e-cigarettes are significantly less harmful to health than smoking tobacco and; therefore, that is why the government is seeking to support consumers to stop smoking and adopt the use of the less harmful nicotine products of e-cigarettes. It is not just in England, last year the United States National Institute of Health funded a study published in the British Medical Journal, after having evaluated direct census bureau data, and concluded that "the substantial increase in e-cigarettes use among the (audio difficulties) smokers was associated with the statistically significant increase in smoking cessation rate." He offered concern that if this legislation does not correct the definitions about e-cigarettes, "we will lose out" and the public health will be damaged because people will not be able to quit smoking by using the less harmful e-cigarettes.

[1:52:49 PM](#)

JOSHUA SILAS advised that he is testifying in opposition to HCS CSSB 63(CRA), he was testifying on his own behalf, and was born and raised in Soldotna. Mr. Silas asked that the vape language be removed from the bill, noting that he works in a vape shop and he has help 496 people become tobacco-free and stop giving themselves lung cancer. Respectfully, he asked that the

committee remove the vape shops and all e-cigarette language out of this bill and keep vaping out of smoking laws.

[1:54:27 PM](#)

REPRESENTATIVE KOPP noted to Joe Darnell, Alaska Behavioral Health Tobacco Enforcement, that one of the committee's balancing interests is looking at exactly what an e-cigarette use is, as opposed to a combustion cigarette. Everyone wants the use of harmful products to go down for young people and according to reports included in the committee packet, there is an indication that e-cigarette use is "basically exploding among the youth." Whereas in 2015, more than 3 million students in middle school and high school students were involved in its use, and the use appears to be rising. He asked whether Mr. Darnell had had any experiences running audits or running undercover attempted buys from e-cigarette stores, similar to places that sell tobacco products, to determine whether they were selling to the youth.

[1:56:10 PM](#)

JOE DARNELL, State of Alaska Behavioral Health Tobacco Enforcement, Department of Health & Social Services, responded that in 2016-2017, a survey was performed identifying vape shops around the state and they ran 16-17-year old individuals in the shops to see whether they were able to buy vape products. In 2016, there was a 26 percent buy rate statewide of vape products to underage kids, and the underage seller of tobacco was only 5.4 percent. In 2017, the study showed a 35 percent sale of vape products to underage minors, and the tobacco sale to underage minors was at a 4.7 percent sell rate. The vape shops are selling regularly to underage minors (audio difficulties) in Anchorage parents call in complaining of vape shops selling to their children.

[1:57:45 PM](#)

REPRESENTATIVE KOPP advised Mr. Darnell that because the audio "was so garbled" he wanted to clarify that Mr. Darnell had said that in 2017, the compliance program had determined, after his office ran operations, that 35 percent of all vape shops sold to underage minors, as compared to approximately 4.7 percent of the tobacco shops.

MR. DARNELL answered in the affirmative.

REPRESENTATIVE KOPP asked Mr. Darnell's proposed solution for this problem.

MR. DARNELL responded that his shop does not have the authority to enforce those vape shops selling to underage minors. He offered that a Senate bill that is moving within the two bodies that addresses that issue by requiring that vape products be added within tobacco products. He stressed that it should be regulated the same as with tobacco products, and that licensing is the same. That would make it much easier to help keep these products out of the hands of Alaskan youth, he pointed out.

[1:59:21 PM](#)

JOSEPH YOURKOSKI referred to HCS CSSB 63(CRA) and advised that he is a sophomore in Nikiski Middle High School, and he is testifying on behalf of the American Cancer Society Cancer Action Network. Mr. Yourkoski testified on HCS CSSB 63(CRA), as follows:

I'd like to begin by thanking Chairman Claman and the House Judiciary Standing Committee for allowing me the opportunity to speak today. I am here to testify on behalf of SB 63. This bill is important to me because I, myself, am a cancer survivor. Smoking is the cause of 30 percent of all cancers. I was diagnosed with leukemia when I was 4-years old and lived through harsh and rigorous 3.5-year treatment plan. Now believe me, this is not an enjoyable experience for anyone. Senate Bill 63 commonly referred to as a "smoke-free workplace act" will protect those who do not smoke from having to choose between a paycheck and their health. This is supported by 88 percent of all Alaskans, many of whom are like me and live in a borough that does not have health powers. This bill would make it illegal to smoke in a place of business and as I move toward the workforce, this becomes even more important to me. This bill has the potential to save hundreds of lives and people from the tremendous hardship that is cancer. Cancer not only affects the patient, but their family and friends as well. By passing this bill Alaska can save lives so I urge you to pass this bill.

[2:00:55 PM](#)

DANIEL PHUNG, Regional Representative, 5 Pawns, advised that 5 Pawns is based out of California as well as having several business partners in Alaska, he noted that there were potential impacts to his company related to this legislation, and asked the committee to remove the vapor language from this bill. Currently, he employs 20 people who share his vision in (audio difficulties) reduction technology, and he has had product representation for some time in various retail locations throughout Alaska with multiple business partners throughout the world. (Audio difficulties) people who agree with the benefits of vaping and the need to separate the categories. He added that 5 Pawns manufactures state-of-the-art clean (audio difficulties) and have implemented quality systems to ensure consistency, (audio difficulties), and accountability for all of the products. He advised that he was not sharing this information to impress the committee, but rather to impress upon the committee that HCS CSSB 63(CRA) has negative implications to what a vapor-related business is, and it also makes it difficult for those who have chosen this path of tobacco (audio difficulties) reduction technology to comfortably continue toward a cigarette-free lifestyle. He referred to the "heat not burn" technology and implored the committee to investigate the separation of the categories. (Audio difficulties) does not kill, it is the tar that kills, (audio difficulties) studies have been released to speak to the long-term effects of vapor products and current findings indicate the need to distinguish between the two categories. For example, he offered, (audio difficulties) New Zealand legalized vapor products as part of its plan to have a smoke-free country by 2025. England has also encouraged smokers to switch to vapor products and it is now experiencing historic low smoking rates. Furthermore, this technology has the ability to achieve equal or greater (audio difficulties) in Alaska and has the potential to eliminate many unnecessary tobacco-related healthcare costs.

[2:03:44 PM](#)

JAMIE MORGAN, Senior Director, Advocacy and Policy Campaign, American Heart Association, advised that heart disease and stroke remain the number one causes of death in the United States, and that cigarette smoking is a major risk factor. Smoking not only claims the lives of those who use tobacco, but also those exposed to secondhand smoke. As reported by the United States Surgeon General, exposure of secondhand smoke for adults has immediate adverse effects on the cardiovascular system and causes coronary heart disease and lung cancer. In fact, she said, just 30-minutes of exposure to secondhand smoke

rapidly impairs vascular function, and long-term exposure to secondhand smoke is associated with a 25-30 percent increased risk of coronary heart disease in adult non-smokers. Due to these effects on blood and blood vessels, the National Centers for Disease Control and Prevention reports that there is a zero-risk-free level of secondhand smoke because even brief exposure can cause immediate harm. The American Heart Association knows that smoke-free indoor air laws save lives, studies that (audio difficulties) communities published in peer-reviewed journals have shown a decrease in heart attack incidents after the implementation of smoke-free laws. One example, she offered, is within a town in Colorado wherein there was a 41 percent decline in heart attack hospitalization. In addition to the health benefits, there is an economic advantage when enacting smoke-free laws because telling evidence shows no significant impact in actual businesses, with the additional benefits that include: lower cleaning costs; lower worker absenteeism; and increased productivity. As the committee has heard, she reiterated that only one-half of the Alaskan population is covered by smoke-free workplace laws, so this legislation will better protect the health and safety of all workers, patrons, and visitors from diseases and pre-mature deaths caused by secondhand smoke. She advised that the American Heart Association and the American (indisc.) Association believes this legislation will positively impact Alaskan residents regarding health care costs and benefit businesses that would no longer be impacted by the various costs associated with indoor smoking. She asked the committee to please pass HCS CSSB 63(CRA) out of committee.

[2:06:40 PM](#)

JAMES SQUYRES advised that he lives in Rural Deltana and is a constituent of Representative George Rauscher. He stated that he is a non-smoker, he opposes to this legislation, and is "appalled at the seemingly insatiable desire to increase the size state footprint and influence government." This [legislation] has been recycled by the primary sponsor many times at the cost of state government, and the nays in the Senate were as follows: Senators John Coghill, Mike Dunleavy, Shelley Hughes, Pete Kelly, and Bert Stedman. (Audio difficulties) opposed because they are heavy smokers, or because they were concerned about the size and scope of government. He remarked that not only does he encourage the chair to put HCS CSSB 63(CRA) in the drawer, but the primary sponsor needs to be notified to quit wasting this committee's time at the expense of Alaskans. He advised that he would like to see "you folks out of there in 90-days."

2:07:38 PM

DIANA REDWOOD offered strong support for the legislation and noted that she lives in Anchorage and benefits from the smoke-free bars and restaurants, especially for dancing and listening to music. However, she pointed out, she travels around the state for work and when visiting bars, she must leave due to the smoke. Ms. Redwood reiterated that she strongly supports HCS CSSB 63(CRA) and asked the committee to pass it into law.

2:08:35 PM

LARRY TAYLOR, JR., advised that he support this legislation and its regulations on smoking. Mr. Tayler said that he retired 10-years as an environmental engineer for the Anchorage Air Quality Office, and pointed to a 2014 report, published by the University of Alaska wherein it studied the effects of clean indoor air ordinances on employment and air quality in Anchorage. In 2000, Anchorage limited smoking in public places, except bars, and in 2001, employment decreased by 10 percent in restaurants that went smoke-free, and only 6 percent of the restaurants that allowed restricted smoking. In 2007, an amended ordinance stopped all smoking in restaurants and bars, and from 2001-2010 bar employment was 10 percent higher than it would have been without the ordinance. In 2008, a comparison of Anchorage's no smoking bars and Juneau's smoking bars found that there were 33 times more respirable particles in the Juneau bars. He then asked that the committee pass HCS CSSB 63(CRA) out of committee and move it closer to a House of Representatives floor vote, where he opined it has good support to pass.

MR. TAYLOR referred to vaping issue that all of the "outside guys are calling in about," and advised that there is nicotine in vaping fumes, and possibly formaldehyde which is definitely a problem, and there is diacetyl, which is a popcorn flavoring that is safe in popcorn, but it is not safe to breathe in because it can cause lung problems called "popcorn lung." He pointed out that "it would just be really simple" not to have to worry about that and enact the requirement that vaping is taken outdoors because if smokers have to go outside, why not vaporers.

2:10:52 PM

KELLY LARSON advised that she has worked since she was old enough to receive a work permit from the State of Alaska due to a financial need. Without transportation, she advised, she was limited to the businesses that were within walking distance from her home. For many years she had to work in smoke filled environments, she was sick all the time, and the doctor had to prescribe harmful medication, and she is undergoing (audio difficulties) treatment. During her earlier years, the students in middle school and high school teased her about the manner in which she could breathe as it was labored and loud, so even as a child she knew she was sick. Cigarette smoke (audio difficulties) exposed everywhere, work, home, and even at school with smoke billowing out of the teachers' lounge and smoking areas and into where she had to (audio difficulties). She stressed that she should have been protected by her employers and protected from teachers smoking in their workplace. She stressed that until a person experiences the effects of secondhand smoke and what it can do to a body, no one could possibly understand. She described it as having an elephant sit on your chest while gasoline is poured down your throat, your sinus filled with tobacco (audio difficulties) and onions are rubbed in your eyes. That, she noted, is what she deals with due to secondhand smoke, and 20 years later she was diagnosed with severe environmentally induced asthma with the most common trigger being cigarette smoke. She related that she has a son who smokes and vapes, and his vape smoke makes her sick, so he has to take it outside and not be anywhere around her car or her grandchildren. She worries that as she ages she will develop Chronic Obstructive Pulmonary Disease (COPD) or a lung or throat cancer, and yet, she said, she has never smoked a day in her life. She does not want to see any person without a choice have to work in a smoke-filled environment, noting that she did not have a choice. Alaskans need protection and they cannot afford to wait on this issue, and to please advance HCS CSSB 63(CRA) as quickly as possible, she asked.

[2:13:25 PM](#)

JENNY OLENDORFF advised that she is a lifelong Alaskan and lives in "beautiful smoke-free Palmer." She offered support for HCS CSSB 63(CRA) and advised that last summer (audio difficulties) Soldotna (audio difficulties) Senator Peter Micciche's tireless statewide efforts, workers are still not protected from secondhand smoke. She remarked that she has advocated for smoke-free workplaces in Alaska for over 10-years due to being subjected to secondhand smoke in her workplace in Soldotna. She described that it was a small strip mall that became so

pervasive and unhealthy that she broke her lease and moved into a smoke-free office complex uptown. Please, she asked, for the sake of all Alaskan workers and for the benefit of public health, pass this legislation out of the House Judiciary Standing Committee and include protections from e-cigarette aerosol, so legislators can finally vote on this important legislation.

[2:14:27 PM](#)

NOEL CROWLEY BELL advised that she supports HCS CSSB 63(CRA) because she wants a smoke-free workplace for all Alaskans, especially teens, young adults, and her young children. She expressed that young Alaskans are anxious to begin working and often begin their employment careers in industries, or areas of the state not currently protected from the effects of secondhand smoke. She remembers being a non-smoker in a small office where the manager smoked and "it was horrible" because there were no smoke-free workplace laws, and in the event she found work elsewhere, there were no guarantees that workplace would protect her from the exposure of secondhand smoke, she related. Within Alaska, only about 50 percent of Alaskans are protected by a smoke-free workplace law so please pass this legislation out of committee, she asked. Ms. Bell offered her belief that all Alaskans, not just those privileged to live in a city that can pass this law, should be protected from the known health risks of both secondhand smoke and vape aerosol, and it is important to include vaping in this legislation.

[2:16:00 PM](#)

ELIZABETH RIPLEY, Mat-Su Health Foundation, advised that she is the CEO of the Mat-Su Health Foundation and HCS CSSB 63(CRA) is its top legislative priority, and that Mat-Su Health Foundation offered its full support for the bill. She pointed out that the Mat-Su is a second-class borough and it, together with many other regions, do not have the health powers to enact a smoke-free workplace law, which is why the statewide regulations are critical. While headway has made to reduce smoking rates among Alaskans, Alaskans are losing ground to e-cigarettes. She noted that locally and statewide, the state still has some of the highest tobacco use rates in the nation thereby, increasing the state's chronic respiratory disease rates. This legislation is the next big step Alaska can take to reduce these rates of smoking and disease, and this bill will have more impact on the immediate health of Alaskans than probably any bill enacted this session. Eleven studies were analyzed, and of more than 2.5

million births had approximately 250,000 asthma attacks, and the studies found that the number of premature births in children's hospitals and visits for asthma dropped 10 percent in certain regions of the United States, Canada, and Europe, one year after enacting no smoking laws. An impact analysis of smoking bans on adult health demonstrated a 15 percent reduction in cardiovascular events, and that every community instituting these smoking bans has seen a decrease in heart attacks. She pointed out that passing this bill is a fiscally responsible effort to make because tobacco use has cost Alaska \$579 million annually in direct medical costs and lost productivity. Medicaid pays for over 60 percent of babies (audio difficulties) regional and across Alaska, and this bill would reduce asthma admissions (audio difficulties) for births by 10 percent to save state dollars. (Audio difficulties) recommends that this law be passed to reduce high (audio difficulties) impact on the state operating budget. She offered that HCS CSSB 63(CRA) is the next step for Alaska to reduce smoking rates (audio difficulties) and offered appreciation for supporting HCS CSSB 63(CRA).

[2:18:31 PM](#)

BECKY STOPPA asked that the committee pass HCS CSSB 63(CRA) out of committee. She noted that she is a lifelong non-smoker, but she grew up in a house full of smokers and her first employers throughout her teens and 20s were smoking workplaces. As a result, she has suffered numerous bouts of pneumonia and bronchitis to the point she was hospitalized. It has been more than 25-years since being exposed to secondhand smoke in the workplace, yet she still suffers the consequences because she has asthma and an embarrassing chronic cough that is oftentimes debilitating. She urged the committee to support this legislation and protect all Alaskans from the harmful effects of secondhand smoke, thereby, ensuring that everyone has a safe place to work.

[2:19:42 PM](#)

CHAIR CLAMAN related that he would now repeat a query from a Kodiak listener, and asked whether the American Legion Clubs would be exempt.

SENATOR MICCICHE answered that the clubs are not exempt.

[2:20:34 PM](#)

SUSAN SMALLEY, Volunteer, American Cancan Society, advised that she is a volunteer for the American Cancer Society, a cancer survivor, and a 48-year Alaskan. She noted that she has been testifying for more than a decade, during which time the Alaskan workers have been exposed to the dangers of secondhand smoke in the workplace and stressed that it is a health hazard not unlike asbestos or lead paint. Several years ago, she worked in a restaurant and lasted just one eight-hour shift because she was sick from secondhand smoke, and she quit her job. Although, that option is not available for everyone, and she noted that a friend of hers has no choice and has a similar job and she talks about undressing in her garage after work at the smoking establishment because she does not want to share her tobacco infused smell with her children. She reiterated that changing her job is not an option, so her friend risks her own health to support her family. (Audio difficulties) cannot do it by ourselves, "we don't have the power," the state needs smoke-free workplaces and she requested the committee's support for HCS CSSB 63(CRA) and save lives, money, and make Alaska healthier because Alaskan lives are precious.

[2:21:59 PM](#)

CHRYSTAL SHOENROCK, Owner, 4 Lands Bar, advised that she owns 4 Lands Bar in Nikiski, she has employees who all smoke, her customers want to continue smoking in the bar, and it is her prerogative to run her business as sees fit as long as she pays her taxes and lives within the law. She stressed that she does not believe "we need" government control to tell people what to do, and some customers are 'old veterans' who have fought and fought for this country for the public's freedoms," yet, the legislature is trying to take them "away from us." She commented that there are enough establishments in Nikiski with non-smoking policies, and if a person is a non-smoker they should work in those establishments. A smoker should have a place to go where they can feel at-home and "do whatever," and, she stressed that she did not feel "you people" need to be telling "us how to run our businesses," you need to worry about the deficit, downsize the government, and "get off this subject that we're on."

[2:23:21 PM](#)

JOHNA BEECH advised that she is a volunteer for the American Cancer Society, Cancer Action Network, and is testifying as a private citizen. She said that she is offering support for smoke-free workplaces and that for years she worked in a smoking

environment because she did not have the skill set to work in a different environment. She related that she did not acquire the skill set to get her out of that environment until she was approximately 21 years old. The workers in today's market should not have to decide between a paycheck and their health. She asked the committee to pass HCS CSSB 63(CRA) from committee and allow it to go to the House of Representatives floor for a vote and keep the e-cigarettes and vaping language in the bill. Remember, she related, it is not about the smoker, it is about the smoke, it is not about the vaper it is about the vape, and all Alaskans have the right to breathe smoke-free air.

2:24:25 PM

PAMELA HOWARD advised that she is speaking on behalf of high school students. She said that she has been a school nurse in Alaska for 31-years and it came to her attention during her presentations to the students that most students believe there is already a law protecting them from secondhand smoke. When they were told that the state legislature was looking at this bill, over 95 percent of the students supported its passage. She explained that the documentation of this percentage amount comes about because the school offers a "agree/disagree line." The students also wonder why the opioid bill moved through the two bodies so quickly, and yet, tobacco exposure continues to kill so many more people every day. It is the students' hope, she offered, that this bill not be held up any longer. Personally, she remarked, she wishes a law had been in place when she first joined the workforce because through her exposure to secondhand smoke she now has asthma even though she has never smoked. It is too late for her, but not for the students and she said that she hopes this bill will prevent her grandson from dealing with secondhand smoke. As to the vaping issue, she related that the current trend of students is to initiate vaping rather than smoking, although the majority of students believe that vaping is a risk to both the vaper and those breathing in the secondhand vaping smoke. She pointed out that the students do not want to wait as long as it has taken to find out that smoking is injurious to their health.

2:26:27 PM

PAMELA OLSON advised that she worked for a non-profit agency that was located above a bingo and pull-tab facility of which had a ventilation system, but most of the time it was not working. As a result, the concentrated levels of smoke entered the non-profit agency's office and being a non-profit (audio

difficulties) relocate until two-years ago. The new location for the non-profit agency is smoke-free, but she and her co-workers are still suffering from the results of being exposed to those concentrated levels of toxins. It takes her 20-30 minutes to clear her lungs each morning due to the damage caused during that time, and she encouraged the committee to pass HCS CSSB 63(CRA) on behalf of those workers who do not have control over the secondhand smoke they are exposed to, and on behalf of all Alaskans.

[2:27:53 PM](#)

BENJAMIN SCHMAUSS advised that he was raised in southern Alaska (audio difficulties). He offered support for HCS CSSB 63(CRA), because his mother worked as a bartender when she was pregnant with Mr. Schmauss, and as a child he suffered from hearing problems and different medical problems based from his exposure to secondhand smoke. His grandfather, a World War II veteran, died of lung cancer, and he strongly believes that Alaskans should be able to work in safety and not risk their health because they have to provide for their families. (Audio difficulties.)

[2:29:45 PM](#)

PENNY PALMQUIST advised that she quit smoking in 1991, but she has worked in many smoking environments, and probably her biggest (audio difficulties) was when she worked for the Sullivan Arena, a municipal building that was smoke-free, but sometimes everyone smoked whenever they pleased. (Audio difficulties) take me several days to get over it, and she is a cancer survivor. A statistic she found showed that 41,000 people in the United States die every year from secondhand smoke, yet these people had never smoked a cigarette in their lives. (Audio difficulties) breast cancer people have approximately 44,000 besides (audio difficulties). She noted that there are various communities wherein employees do not have the choice of where to work, and they oftentimes work in bars, restaurants, and office spaces where people smoke and also vape. With respect to the kids, she related that they "dip" which is where they heat a portion of the e-cigarette to get a higher hit off of the vape, and some places in Alaska are selling these e-cigarettes to young people. She then strongly urged the committee to pass HCS CSSB 63(CRA) out of committee.

[2:32:05 PM](#)

EDELTRAUD RODEWALD advised that she is a 35-year resident of Alaska and is currently living in Anchorage. She said that this issue affects non-smokers and smokers, and few people disagree that smoking is bad for a person's health, such that her long-time smoking father died at age 37 from cancer, and her brother who is now unemployed suffers from the health effects of smoking and he has zero health insurance. Starting to smoke may be a choice, but continued smoking is an addiction, she pointed out, and it is known that smoke-free work environments assist people in cutting back on their smoking and helps young people to never start smoking. She said that she is really here testifying about Alaskans breathing smoke-free air, including free from the effects of aerosol from vaping. In working her way through college by working in smoky bars, she now has a chronic cough and doctors question her as to whether she was a smoker, and she was not. She offered that 88 percent of Alaskans agree that it is time to pass this smoke-free workplace legislation out of committee.

[2:33:51 PM](#)

GEORGE STEWART thanked the sponsor for attempting to eliminate smoking in workplaces around the state and he strongly supports HCS CSSB 63(CRA). He stated that Alaskans are entitled to clean air, smoke-free air, with a majority of Alaskans voting in favor of this type of legislation because there are all kinds of toxins in cigarette and e-cigarette smoke. (Audio difficulties) nicotine, (audio difficulties) volatile organic compounds (audio difficulties) hydrocarbons and other things. Particularly, as to teen-agers who vape, there is a higher risk of them becoming cigarette smokers. (Audio difficulties) a publication from the Institute of Drug Abuse advised that 30.7 percent of teen-agers who vape cigarettes became actual cigarette smokers; therefore, vaping should be banned as well due to the toxins in e-cigarette smoke. Basically, he pointed out, if a person is a smoker "take it outdoors," rather than exposing Alaskans to cigarette smoke and e-cigarette smoke in the workplace. He asked the committee to please pass this legislation.

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WILLIAM HARRINGTON advised that he is not a paid shill of the vaping industry, "and the audio in the Anchorage LIO sucks today." He said that there are some penalties he did not believe the state would be using often because they are too light for the offenses. He referred to HCS CSSB 63(CRA), [AS 18.35.399(11)] page 11, lines 13-15, which read as follows:

(11) "smoking" means using an e-cigarette or other oral smoking device or inhaling, exhaling, burning, or carrying a lighted or heated cigar, cigarette, pipe, or tobacco or plant product intended for inhalation.

MR. HARRINGTON referred to the language: "or plant product intended for inhalation," and said that "marijuana or cannabis, I don't see in any of my reading, and yet, I do believe that a plant product intended for inhalation is being pushed on the streets as very many of these pot shop these days, so if this includes pot when talking about smoking, it's not, you know, on the same page." He pointed to information located in the 1/21/18, FF (audio difficulties) Newspaper, that the tax on recreational marijuana in Berkeley, California is presently 26.5 percent. He offered his agreement with Senator Micciche that the state must protect employees from all job-related lung hazards (audio difficulties) asbestos if the committee requires more extreme examples. Education of the youth from 1st grade on of the hazards to themselves from (audio difficulties) self-harm behavior is the only viable long-term solution, he said.

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MARG STONEKING, Executive Director, American Lung Association-Alaska, offered that secondhand smoke is especially dangerous, and that secondhand smoke makes it harder for people living with lung diseases, (audio difficulties) COPD, and there are over 100,000 Alaskans for whom that is true. She said referred specifically comments from the e-cigarette industry representatives calling in from outside of Alaska and said that several times public health (audio difficulties). She pointed out that in other countries, public health is regulated under the (audio difficulties) drug administration found that families smoking tobacco is bad for prevention control. In late 2016, e-cigarettes were included under that act and are; therefore, regulated as a recreational tobacco product (audio difficulties) attempting to go down a different route. However, in this country no (audio difficulties) has prevented (audio difficulties) as a cessation device to the FDA. Further, in 2016, the United States Surgeon General published the first report on e-cigarettes and focused on using young adults because, as the committee heard, that is where the preponderance of youth takes place. Within the Surgeon General's report, he concluded that e-vape aerosol is not safe and recommended inclusion of e-cigarettes within smoke-free laws all across the

United States. She reiterated that she is from the American Lung Association and it is the American public's health authority, and it advocates for the inclusion of aerosol in [smoke free laws]. She pointed out that the e-cigarettes aerosol is full of high concentrations of ultra-fine particles, even higher than conventional cigarettes smoke, she added.

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KRISTIN MILLER advised that she believes it is important that Alaska becomes smoke-free across all workplaces because all Alaskans deserve a smoke-free workplace. Smoking continues to be a personal choice and smoking should be done in private, so that those who do not smoke, not be exposed [to secondhand smoke] knowingly or unknowingly, she stated.

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CHAIR CLAMAN, after ascertaining no one wished to testify, closed public hearing on HCS SB 63(CRA).

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REPRESENTATIVE EASTMAN referred to [HCS CSSB 63(CRA), AS 18.35.399(5)(6)], page 10, lines 15-18, which read as follows:

(5) "employee" means a person who is employed by a business for compensation or works for a business as a volunteer without compensation;

(6) "employer" means the state, a municipality, a regional education attendance area, and a person or a business with one or more employees;

REPRESENTATIVE EASTMAN commented that when using the word "employee," he generally thinks of someone who is working and is paid by someone. Under the current definition of employer, the draft includes anyone with "one or more volunteers," and he noted that that appears to "rub up against the way we usually -- normally use those terms."

SENATOR MICCICHE answered that he strongly believes Alaskans who are either employed in the traditional sense of the word or volunteering as many as 30-40 hours per week should be protected in a smoke-free workplace whether they are compensated or volunteering to be in that workplace.

[2:42:30 PM](#)

REPRESENTATIVE EASTMAN asked whether there was a time limit in the current draft for volunteers.

SENATOR MICCICHE responded that there is not currently a minimum in the bill.

[2:42:50 PM](#)

REPRESENTATIVE FANSLER, noting that the House Community and Regional Affairs Standing Committee discussed marijuana and the prohibition of possibly hurting the state's commerce, asked the sponsor to explain where the bill is in relation to that issue.

SENATOR MICCICHE offered that that is something "we struggled with" because it is a bit hypocritical to protect employees from the effects of cigarette smoke, and yet, allow the effects of marijuana smoke on perhaps those same employees. Currently, he answered, the bill defers to the board's decision as to how it moves forward because he felt "they were overstepping a little bit. Although, I struggle with that decision."

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REPRESENTATIVE LEDOUX related that she understands that some people do not have a choice where they work and if there is smoking in the establishment, they do not have the option of quitting and moving to another job. Although, in the situation of a volunteer who is not being paid and can come and go as they please, she asked why the volunteer would be included in the definition of employee because nothing is forcing them to stay.

SENATOR MICCICHE then offered his reason as to why it is appropriate to be in the bill in that some folks can be creative in how they define employee and volunteers. Some folks could have an employee working for them in one business, and perhaps they choose to volunteer in another business. He believes that it was a way to avoid a "work around" and using the word "volunteer" creatively. Unless Representative LeDoux could think of another way to ensure that people were not finding a way to do that, because "again you have the same problem, people have to work" and that is the reason he supports it remaining in the bill, he said.

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REPRESENTATIVE LEDOUX noted that the sponsor had previously talked about wanting to have the softest footprint, and including a volunteer without any evidence that the volunteer is actually being coerced because they work for another business, does not seem to be the softest possible footprint. She suggested that an employee be defined as one normally would define an employee, and if there turns out to be a problem to address the problem.

SENATOR MICCICHE commented that that dovetails with his answer earlier regarding the issue with the Veterans' Clubs and many of the animal clubs, such as the Elks, Moose, Eagles, and so forth. In this case, he advised, those clubs have a tendency to have a lot of volunteers that cover some of the hours and it could become confusing. He mentioned that many folks have approached him on that kind of a private club, particularly the Veterans' Clubs, and stressed that there are Veterans' Club members "screaming for smoke-free establishments" where they can visit with their veterans. He said, "They don't want to step out often," but younger veterans are coming home from various countries with younger families, and "they are having difficulties growing those clubs" due to some of the tobacco consumption taking place in those clubs. Although, he acknowledged, not "all of them" have come out formally in support of this bill, the unofficial supporter is a high proportion of users of those facilities. A lot of those facilities have volunteers covering some of the hours, which was one of the considerations, he said.

[2:48:19 PM](#)

REPRESENTATIVE LEDOUX noted that she was still confused because Senator Micciche had not given her anything that suggests that our Veterans' Clubs or all sorts of clubs would have a tendency to try to circumvent the law. Certainly, our veterans who have fought for our freedoms and risked their lives for our freedoms would be the last people to try to circumvent the law, she opined.

SENATOR MICCICHE advised Chair Claman that "I will not sit here and have my words twisted as though" ... He said that he could give a long speech about his support for veterans, but what he is trying to explain is that a lot of organizations have a lot of volunteers. He stressed that this bill can in no manner be construed in any reasonable approach to be anti-veteran, the fact is that it is pro-veteran, especially pro-younger veterans who are exposed to secondhand smoke and want to see a change.

He pointed out that he is supporting veterans in that approach who want to see a change

CHAIR CLAMAN noted that this debate covers the classic question about "where does one individual's right end and the right of one's neighbor begins?" These are not easy questions and they have been debated for decades.

[2:50:04 PM](#)

REPRESENTATIVE LEDOUX surmised that the argument with the veterans' organizations is not so much a concern with anyone circumventing the law vis-à-vis the volunteers, but merely because the sponsor believes that a number of people, particularly the younger veterans, would like to see a smoke-free environment.

SENATOR MICCICHE opined that there were many considerations to be taken when processing a bill for four-years, and both statements are true. He pointed out that there are individuals who will find a creative way to (audio difficulties) that sometimes continues to put people at risk, and he offered to provide Representative LeDoux with publications from the different veteran's groups that they have been working on this nationwide effort to go smoke-free. He offered that it could be a privately held facility that decides it will find a way to find some volunteers for different events to avoid claiming employees, but the effects are the same. He opined that Chair Claman was correct in that it is about the greatest property right, and the greatest property right in this country, as far as he concerned, is the right of your own person. It is the right, in a typical setting, for employees to be protected from the effects of secondhand smoking, he advised.

[2:51:57 PM](#)

REPRESENTATIVE KOPP asked whether it is true that most non-profits in Alaska have a combination of paid and unpaid people working for them.

SENATOR MICCICHE advised that "I can say" that the majority, but he could also say there is a high percentage of private clubs that have volunteer support within their ranks.

[2:52:42 PM](#)

REPRESENTATIVE KOPP advised that when he was a staffer, he carried this bill for two-years for Senate Micciche and regrets they could not get it across the finish line. One of the things they discovered with this question is that non-profits, by the dozens, will have one paid CEO and a dozen volunteers. Therefore, if people start parsing the definition, it is almost impossible to go smoke-free, he pointed out.

[2:53:17 PM](#)

REPRESENTATIVE FANSLER advised that many times in Bethel, folks may get sentenced to community service as part of their [sentencing] and they are forced to volunteer "and that that can take a large range." He asked whether that is what the bill is also seeking to capture here, as well perhaps by the definition of volunteer. For example, a situation where a single sole practitioner business needs some volunteers to possibly unload a shipment or help sort through donations. He asked whether that would expand this to protect those people who are "kind of" forced to volunteer in that situation.

SENATOR MICCICHE opined that that would probably be an area that would not capture them. For instance, an accounting office without employees and is an expansion of a home, that is not covered by this. He said that he certainly does not think that anyone will have the opportunity to recognize that they have temporary volunteers working in that business that is not generally covered. His interpretation, he offered, is that it would be in a business that is generally covered, where the volunteers would be regarded as employees.

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REPRESENTATIVE EASTMAN referred to [HCS CSSB 63(CRA), AS 18.35.306(b)], page 6, lines 6-8, which read as follows:

(b) ... conspicuously display a sign that reads "Smoking within (number of feet) Feet of Entrance Prohibited by Law--Fine \$50" visible from the outside of each entrance to the building.

REPRESENTATIVE EASTMAN noted that in other places of the bill there is just a prohibition on smoking generally with a \$50 fine. He asked whether that would apply to Uber drivers and whether every Uber driver must put that type of signage in their vehicles.

SENATOR MICCICHE commented that possibly someone from Uber is listening and could clarify that as a national policy, neither Uber or Lyft allows for smoking in their vehicles at any time. He said that he does not know whether they require the signage and whether taxis or other vehicles for hire require signage.

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REPRESENTATIVE EASTMAN referred to people who work out of the house and asked whether that becomes prohibited under this bill as far as smoking or signage.

SENATOR MICCICHE answered "No."

MS. NEENON, in response to Representative Eastman's previous question, answered that vehicles would have to have some sort of a no smoking sign, which could include anything from a little no smoking sticker, or something printed off, or a "no Puffin" sign, "those are all allowed for in here."

[2:57:12 PM](#)

REPRESENTATIVE REINBOLD expressed concern about parents smoking in their homes and commented that there is nothing the legislature can do about that issue. She said her husband grew up in a family where both parents smoked, and he suffers the effects. She offered concern as to the powerful testimonies and the harmful impacts that secondhand smoking causes on innocent bystanders.

[2:59:58 PM](#)

SENATOR MICCICHE thanked the committee for hearing the bill, noting that it is difficult to find the proper line between the government's role, protecting innocent folks, and a parent's choice. He related that it was a struggle "that we had, which is the only reason I could go as far as I would go, I really don't support going any further."

[HCS SB 63(CRA) was held over.]

[3:00:42 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 3:00 p.m.