

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 5, 2018

1:01 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Jonathan Kreiss-Tomkins
Representative Gabrielle LeDoux
Representative David Eastman
Representative Chuck Kopp
Representative Lora Reinbold
Representative Louise Stutes (alternate)

MEMBERS ABSENT

Representative Charisse Millett (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 259

"An Act relating to containing or confining loads being transported on highways."

- MOVED CSHB 259(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 319

"An Act relating to criminal background checks for marijuana establishment registrations and renewals; and providing for an effective date."

- MOVED CSHB 319(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 259

SHORT TITLE: CONFINING VEHICLE LOADS

SPONSOR(S): REPRESENTATIVE(S) STUTES

01/08/18	(H)	PREFILE RELEASED 1/8/18
01/16/18	(H)	READ THE FIRST TIME - REFERRALS
01/16/18	(H)	TRA, JUD
01/25/18	(H)	TRA AT 1:15 PM BARNES 124
01/25/18	(H)	-- MEETING CANCELED --
01/30/18	(H)	TRA AT 1:00 PM BARNES 124
01/30/18	(H)	-- MEETING CANCELED --

02/01/18 (H) TRA AT 1:00 PM BARNES 124
02/01/18 (H) Heard & Held
02/01/18 (H) MINUTE(TRA)
02/08/18 (H) TRA AT 1:00 PM BARNES 124
02/08/18 (H) Moved CSHB 259(TRA) Out of Committee
02/08/18 (H) MINUTE(TRA)
02/09/18 (H) TRA RPT CS(TRA) 1DP 5AM
02/09/18 (H) DP: STUTES
02/09/18 (H) AM: KOPP, CLAMAN, DRUMMOND, EASTMAN,
WOOL
02/21/18 (H) JUD AT 1:00 PM GRUENBERG 120
02/21/18 (H) <Bill Hearing Canceled>
02/23/18 (H) JUD AT 1:30 PM GRUENBERG 120
02/23/18 (H) Heard & Held
02/23/18 (H) MINUTE(JUD)
03/05/18 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 319

SHORT TITLE: RENEW MARIJUANA LICENSE:BACKGROUND CHECKS
SPONSOR(S): REPRESENTATIVE(S) JOSEPHSON

01/31/18 (H) READ THE FIRST TIME - REFERRALS
01/31/18 (H) STA, JUD
02/13/18 (H) STA AT 3:15 PM GRUENBERG 120
02/13/18 (H) Heard & Held
02/13/18 (H) MINUTE(STA)
02/15/18 (H) STA AT 3:15 PM GRUENBERG 120
02/15/18 (H) Moved CSHB 319(STA) Out of Committee
02/15/18 (H) MINUTE(STA)
02/16/18 (H) STA RPT CS(STA) 5DP 2NR
02/16/18 (H) DP: TUCK, KNOPP, WOOL, LEDOUX, KREISS-
TOMKINS
02/16/18 (H) NR: BIRCH, JOHNSON
02/26/18 (H) JUD AT 1:00 PM GRUENBERG 120
02/26/18 (H) Heard & Held
02/26/18 (H) MINUTE(JUD)
03/05/18 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

MATT GRUENING, Staff
Representative Louise Stutes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 259, discussed amendments to the legislation.

HILARY MARTIN, Legislative Legal Counsel
Legislative Legal and Research Services
Legislative Affairs Agency
Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 259, answered questions.

MEGAN HOLLAND, Staff
Representative Andy Josephson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 319, offered opposition as to Amendment 1.

KIM KOLE, Secretary/Board Member
Alaska Marijuana Industry Association
Anchorage, Alaska

POSITION STATEMENT: During the hearing of CSHB 319, testified in support of Amendment 1.

ERIKA MCCONNEL, Director
Alcohol & Marijuana Control Office
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: During the hearing of CSHB 319, offered concern for Amendment 1.

NOAH STAR, Staff
to Representative Jonathan Kreiss-Tomkins
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of CSHB 319, responded to the comments by the Alcohol and Marijuana Control Board.

ACTION NARRATIVE

[1:01:40 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:01 p.m. Representatives Eastman, Reinbold, Stutes (alternate), Kreiss-Tomkins, and Claman were present at the call to order. Representatives LeDoux and Kopp arrived as the meeting was in progress.

HB 259-CONFINING VEHICLE LOADS

[1:02:19 PM](#)

CHAIR CLAMAN announced that the first order of business would be HOUSE BILL NO. 259, "An Act relating to containing or confining loads being transported on highways. [Before the committee was committee substitute (CS) for HB 259, Version L.]

CHAIR CLAMAN advised that Legislative Legal and Research Services has permission to make any technical and conforming changes to the bill.

[1:03:31 PM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 1, labeled 30-LS0917\L.4, Bruce/Martin, 3/1/18, which read as follows:

Page 1, line 6:
Delete "(b)"
Insert "(c)"

Page 1, line 7:
Delete "(1)"

Page 1, lines 7 - 9:
Delete "; or
(2) damages property of another person in
an amount of \$1,000 or more"

Page 1, following line 9:
Insert a new subsection to read:
"(b) A person commits the crime of failure to
contain or confine a load in the second degree if the
person violates (c) of this section and damages the
property of another person in an amount of \$5,000 or
more."

Reletter the following subsections accordingly.

Page 1, line 11:
Delete "second"
Insert "third"

Page 2, following line 23:
Insert a new paragraph to read:
"(2) second degree is a class B misdemeanor
punishable as provided in AS 12.55;"

Renumber the following paragraph accordingly.

Page 2, line 24:
Delete "second"
Insert "third"

REPRESENTATIVE KREISS-TOMKINS objected for discussion purposes.

1:04:08 PM

MATT GRUENING, Staff, Representative Louise Stutes, Alaska State Legislature, advised that during the previous hearing there was a general concern that the threshold for property damage was too low with regard to the elevation of an offense to a class A misdemeanor. There was also an interest in separating the offense where property damage occurred from serious physical injury to another person. Amendment 1 is in response to those concerns as it raises the misdemeanor threshold of property damage to \$5,000, and Amendment 1 lowers that offense where only property damage of over \$5,000 occurred from a class A misdemeanor to a class B misdemeanor. In the event this amendment is adopted, a violation would have three degrees of offenses, rather than two, as follows: first degree, which is still a class A misdemeanor when with criminal negligence the person failed to secure a load resulting in the serious injury of another person; the newly added second degree would be a class B misdemeanor when with criminal negligence a person failed to secure a load resulting in over \$5,000 in damage to another person's property; and, third degree is the fines and the increase with each offense is untouched.

1:06:24 PM

REPRESENTATIVE EASTMAN asked whether the change of \$2,000 to \$5,000 "is a strict change of amount" because it appears there is more language in the amendment.

MR. GRUENING referred to Amendment 1, page 2, lines 2-5 and responded that the amendment changes it to a class B misdemeanor rather than a class A misdemeanor. He pointed out that there is conforming language where "or" was deleted because another section was added. He explained that page 1, lines 21-23 and page 2, lines 9-11, deletes the language "second" and "third" because a second-degree offense was added. Therefore, what was a second-degree offense in the bill had to become a third-degree offense. He explained that the only substantive changes in the amendment are raising the threshold for property damage, and the class B misdemeanor.

CHAIR CLAMAN clarified that if Amendment 1 is adopted, there will be three tiers of an offense within this statute, as follows: the first would be a class A misdemeanor which results in serious physical injury to another person; second degree would be an unsecured load that results in a property damage of over \$5,000; and the third level would be a strict liability violation that simply involves an unsecured load with the fines as set forth.

[1:08:07 PM](#)

REPRESENTATIVE EASTMAN referred to Amendment 1, page 1, line 15-17, which read as follows:

(b) A person commits the crime of failure to contain or confine a load in the second degree if the person violates (c) of this section and damages the property of another person in an amount of \$5,000 or more.

REPRESENTATIVE EASTMAN asked whether "(c) of this section" refers to subsection (c) in Amendment 1, or subsection (c) refers to "some other part that's not covered in the amendment?"

MR. GRUENING deferred to Hillary Martin, Legislative Legal and Research Services

[1:09:13 PM](#)

HILARY MARTIN, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Agency, asked that the question be repeated.

REPRESENTATIVE EASTMAN referred to Amendment 1, page 1, lines 15-17, and asked whether subsection (c) on line 16 is the same as subsection (c) on page 2, line 11, or is it referring to a different subsection (c).

MR. GRUENING responded that the sections on page 1, line 6 were [relettered] from subsection (b) to subsection (c). Therefore, the current subsection (c) would be the previous subsection (b).

CHAIR CLAMAN clarified that that is what appears on Amendment 1, page 1, lines 19, which read as follows:

Reletter the following subsections accordingly.

CHAIR CLAMAN explained that what is now CSHB 259, page 1, line 10 subsection (b), will become subsection (c) under Amendment 1.

[1:10:27 PM](#)

REPRESENTATIVE EASTMAN surmised that that is "what is being referred to on lines 9-10, and now we keep line 7 of the original bill and we're getting rid of line 8."

MR. GRUENING answered that Representative Eastman was correct in that it is a product of [relettering] subsection (b) to subsection (c).

[1:11:08 PM](#)

CHAIR CLAMAN referred to Amendment 1, page 1, line 16, and noted that there was an omission that did not include the language "with criminal negligence" in what would become the class B misdemeanor for failure to secure a load that results in over \$5,000 in property damage.

MS. MARTIN advised that if the committee wants the new class B misdemeanor offense for damaging the property of another person to have the mental state of criminal negligence attached, the committee should add that language.

CHAIR CLAMAN noted that that is a question for the committee and asked Representative Kopp whether he would like to move a conceptual amendment to add that language.

[1:12:21 PM](#)

REPRESENTATIVE KOPP reminded the committee that it had a consensus to attach a criminal charge of misdemeanor, whether it is a class A or class B misdemeanor, it should have a mental state. Thereby, recognizing that it is not so much just the property damage but also that a person was criminally negligent, and that should rise to a misdemeanor level charge. It would keep the state's criminal law consistent with intent being part of a criminal offense, he explained.

REPRESENTATIVE KOPP moved to adopt Conceptual Amendment 1 to Amendment 1, page 1, lines 15-17, and the language would read as follows:

A person commits the crime of failure to contain or confine a load in the [second] degree if the person with criminal negligence violates (c) of this section and damages the property of another person in the amount of \$5,000 or more.

CHAIR CLAMAN clarified that the language would be second degree and not third degree on line 16. He added that Conceptual Amendment 1 to Amendment 1, page 1, line 16, adds the language "with criminal negligence" after the words "the person" and before the words "violates (c)."

[1:13:52 PM](#)

REPRESENTATIVE EASTMAN asked that if Conceptual Amendment 1 left out the "with criminal negligence" language, what would be the harm.

REPRESENTATIVE KOPP explained that the harm is that the committee is attaching a criminal offense based on dollar damage only, and the legislature tries to fastidiously avoid not having a criminal intent requirement for criminal offenses. For example, he offered, a woman goes to Lowe's to pick up a new appliance, the employees strap it down on the truck bed, and tell her they will meet her at the house to install the appliance. Except, he said, the appliance was not properly secured and it flew out of the truck causing over \$5,000 in damage to the car behind her. In this instance, and all things considered, there probably would not be a finding of a criminal negligence state of mind on the part of the woman simply because the property damage dollar amount was met. He opined that having a mental state attached to a crime is important because in that case, he opined, it was a bad accident but not any criminal negligence on the part of the woman.

[1:15:43 PM](#)

CHAIR CLAMAN advised that there being no objection, Conceptual Amendment 1 to Amendment 1 was adopted.

[1:15:55 PM](#)

REPRESENTATIVE EASTMAN noted that he had revisited the conversation of subsection (b) to subsection (c) and he understands that what is taking place now in Amendment 1, page 1, lines 2-3. Except, he noted, there is nothing in the

amendment that defines what subsection (c) is, and he asked whether subsection (c) is found on CSHB 259, page 2, line 11.

CHAIR CLAMAN clarified that with the language on Amendment 1, page 1, lines 19 [previously typed], page 1, line 10 will become subsection (c) with regard to the [relettering]. He advised the following: CSHB 259, page 2, line 11, will become subsection (d); line 18, subsection (d) will become subsection (e); line 21, subsection (e) will become subsection (f); and page 3, line 3, subsection (f) will become subsection (g).

[1:17:22 PM](#)

REPRESENTATIVE KREISS-TOMKINS withdrew his objection. There being no further objection, Amendment 1, as amended, was adopted.

[1:17:41 PM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 2, labeled 30-LS0917\L.5, Bruce, 3/1/18, which read as follows:

Page 2, line 16:
Delete "or"

Page 2, line 17, following "removal":
Insert "; or
(4) random litter; in this paragraph,
"litter" includes plastic wrappers, empty plastic
bags, leaves, paper, or similar soft materials"

REPRESENTATIVE REINBOLD objected.

[1:18:11 PM](#)

MR. GRUENING explained that during the previous hearing there was a discussion regarding whether this bill would apply to something such as a cheeseburger wrapper or a garbage bag that escaped a vehicle. He advised that it is not the sponsor's intent that the bill apply to random cheeseburger wrappers or empty plastic garbage bags, but only to a load of such items. He said that "load" is a commonly understood term and defining what a load is would limit the court's ability to determine whether something is a load because the definition itself may be overly or underly prescriptive. The sponsor submitted Amendment 2 to further clarify the intent of this legislation. The amendment specifies that the bill does not apply to random

litter, and the current definition of litter, under AS 46.06.150 includes waste materials which the drafter confirmed can include a large heavy object. The definition of waste materials is something that is for disposal and is no longer of use, which could include a large empty propane tank or an entire bed of scrap metal, for example. The sponsor chose, in Amendment 2, to further define what litter is in relation to the bill, and that definition is "plastic wrappers, empty plastic bags, leaves, paper, or similar soft materials." The language "similar soft materials" was included to give the court the leeway to look at similar objects and include those. The definition "includes but is not limited to" allows the inclusion of similar other items. Litter is then modified by the word "random" which means "made, done, happening, or chosen without method or conscious decision." The modifier of "method or conscious decision" covers what Representative Eastman referred to during the last hearing, it clarifies exactly what types of litter is being discussed and what would be included as to a load. It is the sponsor's belief, he explained, that Amendment 2 clarifies the exclusion of these types of materials if they are loaded without method or conscious decision.

[1:20:48 PM](#)

CHAIR CLAMAN referred to Amendment 2, page 1, line 6, and noted that it references "random litter" and the word in quotes is, "litter" and not random litter. He asked why the language is not random litter the second time it appears on line 6.

MR. GRUENING replied that the drafter advised that since litter is actually being defined, she did not think the second use of random was necessary.

[1:21:26 PM](#)

MS. MARTIN responded that the amendment defines "litter" and "random" is modifying litter, and without defining "random" that would carry the normal dictionary definition of the word.

[1:22:01 PM](#)

REPRESENTATIVE REINBOLD removed her objection to the motion to adopt Amendment 2. There being no further objection, Amendment 2 was adopted.

[1:22:13 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 3, labeled 30-LS0917\L.6, Martin, 3/2/18, which read as follows:

Page 2, line 19:

Delete "of a violation of this section"

Insert "under (a) of this section within the preceding 10 years"

REPRESENTATIVE STUTES objected for purposes of discussion.

[1:22:20 PM](#)

REPRESENTATIVE EASTMAN referred to the earlier discussion regarding criminal negligence and the desire to appropriately capture the types of violations that will be covered under this statute and making sure there is a look back that can capture some of those previous violations, even some of the smaller violations. Except, in not wanting to take something that was an accident or a one-time occurrence and turn that into something that would become a class B misdemeanor, Amendment 3 offers ten years look back, he explained.

[1:23:28 PM](#)

REPRESENTATIVE STUTES said that she does support Representative Eastman's Amendment 3. Currently, she noted, the look back for a DUI is 15 years and it appears reasonable to have a 10-year look back limit as to whether a prior offense of an unsecured load can be used in determining whether a person acted with criminal negligence when failing to secure a load.

CHAIR CLAMAN asked whether it was Representative Eastman's intention that the prior violations refer to the convictions of the class A misdemeanor for injury, or whether it is his intention that the violations reference the strict liability violation for failure to secure a load that might or might not result in property damage or personal injury.

REPRESENTATIVE EASTMAN answered that he is looking at CSHB 259, [AS 28.35.251(a)] page 1, lines 4-6, which read as follows:

(a) A person commits the crime of failure to contain or confine a load in the first degree if the person, with criminal negligence

REPRESENTATIVE EASTMAN explained that his amendment is specifically focused on subsection (a) and not trying to get into a \$300 ticket is the intent. In the event there has been any violation of subsection (a) within the previous 10 years then that becomes something for greater scrutiny.

[1:25:32 PM](#)

The committee took an at-ease from 1:25 p.m. to 1:26 p.m.

[1:26:24 PM](#)

REPRESENTATIVE LEDOUX noted that she thought that once Representative Kopp's Conceptual Amendment 1 to Amendment 1 was adopted, that there must be criminal negligence for both the property damage and personal injury damage. Therefore, she surmised, there is no longer strict liability under this bill.

CHAIR CLAMAN explained that for the property damage over \$5,000, and for the serious physical injury, a mental state of criminal negligence is required. He continued that for simply having an unsecured load when no personal injury or property damage occurs, that is a violation in the third degree and that is a strict liability offense.

[1:27:29 PM](#)

REPRESENTATIVE LEDOUX surmised that the example of the Lowe's employees securing the woman's load that falls off and causes \$4,500 in damage is not criminally negligence, and she receives an infraction even though it was not her fault.

CHAIR CLAMAN opined that he believes Representative LeDoux is correct. He asked her to consider the 1,300 people in Anchorage who have driven to the dump and were cited for not securing their loads, but there is then the situation where a dresser falls out of the truck and hits someone. The intent is to give the police additional tools.

[1:28:57 PM](#)

REPRESENTATIVE LEDOUX agreed, and she referred to the woman wherein Lowe's employees secured her load, or a friend secured the load, and pointed out that fighting the ticket should at least be an option if a person did not do anything wrong.

REPRESENTATIVE KOPP responded that the citing of a pure violation where there is no criminal negligence could be just a violation, even if there was \$10,000 damage, if there is no criminal negligence. The offense would be the lowest level of a cite for whatever the fine is on the bail schedule. He referred to [CSHB 259, AS 28.35.251(d), page 2] lines 18-20, which read as follows:

(d) In a prosecution under (a) of this section, the fact that the person has been previously convicted of a violation of this section is prima facia evidence that the person acted with criminal negligence.

REPRESENTATIVE KOPP opined that where the confusion enters is because [CSHB 259, subsection (d), page 2] "we have lines 18, 19, and 20 in the bill at all now" because that was actually fixed by attaching the criminal negligent mental state to both a serious physical injury that has occurred, and the person has to have acted with criminal negligence, and that has been attached to the dollar value at \$5,000. It almost makes these lines problematic in the manner in which the legislation read in that it is prima facia evidence that the person had a previous charge. In the event the discussion is about "inclusive of prior criminal charges" the committee is complicating the law where the intent is entirely met with what was done by attaching the criminal negligence to the mental state for both the serious physical injury and the property damage, and the third is to write a ticket. It is his understanding that Representative Eastman does not want a simple ticket to amount to criminal negligence for a subsequent offense 10 years later. He asked Representative Eastman whether he was correct.

REPRESENTATIVE EASTMAN responded that within the adopted Conceptual Amendment 1 [to Amendment 1], the concerns were resolved behind his Amendment 3, but there is this discrepancy. In building on Representative Kopp's statement, he said that his conceptual amendment would be to simply remove lines 18-20 on page 2 of the bill, and that would clear away all of the concerns.

[1:32:00 PM](#)

CHAIR CLAMAN commented that that is a very different question and instructed Representative Eastman to hold up on that conceptual amendment. He recalled that the purpose in the committee's earlier discussions of having the violations was recognizing that when a person has had repeat offenses of not

securing a load within the last 10 years, and then a load falls off and someone is injured, to be able to use those prior violations as evidence of criminal negligence because the person had repeatedly driven with an unsecured load. The notion was to make that a strict liability offense that could then be evidence of negligence the next time a person hurt someone or caused property damage, and there were concerns about when that could be used. He said he does not believe there was an interest in saying that someone with prior tickets for driving with an unsecured load cannot be used to show criminal negligence when someone is injured.

[1:33:40 PM](#)

REPRESENTATIVE STUTES responded that Chair Claman was exactly correct in what he implied.

[1:33:58 PM](#)

REPRESENTATIVE LEDOUX referred to "other vehicular things," and asked whether there are other infractions where it is strict liability.

REPRESENTATIVE KOPP answered that speeding is strict liability because if someone is driving over the limit, they are over the limit and the person is subject to being cited. The courts have done that because it is almost impossible to conceive of how many reasons or excuses there could be for driving over the speed limit.

CHAIR CLAMAN noted that running a red light and running a stop sign are all strict liability violations.

[1:35:13 PM](#)

REPRESENTATIVE LEDOUX commented that if a person had a seizure and drove through a red light or a stop sign, she did not believe the person would receive a ticket or a conviction.

REPRESENTATIVE KOPP replied that a justification defense is built into the law for any offense where something that is wrong could otherwise be justified based on a circumstance, and that circumstance being a medical incident. The concern there would not be a citation but that medical care is promptly delivered, he said.

[1:36:20 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to Representative LeDoux's scenario and commented that last year in Petersburg, on July 3rd, two young women were killed in a vehicle when the driver had a seizure while driving. That driver should not have been driving because there are laws that if a person has seizures, they are supposed to surrender their driver's license. That driver is being prosecuted for manslaughter or vehicular homicide, he said.

CHAIR CLAMAN commented that, in the civil context, in the event a person ran a red light causing an accident and a citation was issued, that citation becomes prima facia evidence of negligence and people would sometimes contest it. Oftentimes, he said that when he represented the injured party, it worked to their favor because those citations were almost all strict liability. Littering is a strict liability offense and the littering statute, that is not directly tied to this legislation, is a strict liability offense, he advised.

[1:38:00 PM](#)

REPRESENTATIVE EASTMAN offered an example wherein someone was driving down a hill, and someone else had cut their brakes and they were unintentionally driving above the speed limit, certainly the legislature would not want to prosecute that individual. That, he said, goes to the concept behind Amendment 3 itself. The woman had the refrigerator secured at Lowe's and somewhere along her drive home something happened that was not her fault and she received a citation for something that did not result in any type of injury or significant damage. Later on, something else happened and Lowe's was criminally negligent by failing to secure the load and it had a history of using faulty equipment. Suddenly this woman was in that situation. He asked whether the woman could now be caught up and wrapped into deciding she was criminally negligent today due to something that was not her fault nine years ago. He related that that is the concern he is trying to get at when the person was not to blame for the incident that happened over 9 years later and there is another incident where the person is still not to blame, but due to lines 18-20, the law declares the woman was criminally negligent. He pointed out that it is removing the defense that the woman was not criminally negligent, but because she received that citation nine years ago, she is criminally negligent.

CHAIR CLAMAN noted that he believes the intent of the committee was to make it so that prior violations can be used to become prima facia evidence. He offered that [CSHB 259, AS 28.35.251(d), page 2, lines 18-20] subsection (d) would need to be modified in the following two different ways: it would need to be a prosecution under subsections (a) or (b) of this section on line 18, and in Amendment 1, page 1, line 3, "Insert 'under (a) of this section within the preceding 10 years'" would need to be subsection (c). While, he said, that is not what Representative Eastman is trying to do but to the extent the committee is trying to create a means to use prior violations as prima facia evidence in a criminal prosecution, the only way to do that is to have the amendment reference subsection (c). The second question is whether the committee wants the prosecution to apply both to a first-degree and second-degree offense, he asked.

[1:41:19 PM](#)

REPRESENTATIVE STUTES referred to the scenario of the woman whose refrigerator was tied up in an unsecure fashion, and she said that the woman has some ownership if she is driving the vehicle. Anyone can tie down the load, but the driver is the responsible individual and should double check the load. She said she has a hard time buying the, "Well, I didn't do it" defense.

[1:41:51 PM](#)

REPRESENTATIVE LEDOUX said that she agrees with Representative Stutes. She offered a scenario of the person "totally relying on somebody else" and something went wrong, and because the person had that one incident, it should have been the wakeup call to make sure the load was correctly secured. Also, she pointed out, this is just prima facia evidence, and unless a person contests it, they accept it and will be tagged for the offense.

[1:43:21 PM](#)

REPRESENTATIVE KOPP noted that Chair Claman's memory of what the committee had decided was accurate. He clarified that "as is written now, under (c) as you have conceptually modified this, under (c) of this section within the preceding 10 years" this is now just discussing a violation, not misdemeanors. It is putting a time barred look back of 10 years so if something

happened beyond 10 years, it is not introducing any presumption at all.

[1:44:06 PM](#)

CHAIR CLAMAN asked Representative Eastman whether he wanted to continue with his amendment or offer modifications in the form of a conceptual amendment.

[1:44:27 PM](#)

REPRESENTATIVE EASTMAN answered that Legislative Legal and Research Services has been given the ability to make the modification "under (a) on line 3 of Amendment 3, to under (c) now, and that's because we passed Amendments 1 and 2, of course." That does continue with the intent of this amendment and with the intent of the committee, he offered.

[1:45:05 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Conceptual Amendment 1 to Amendment 3, to amend Amendment 3, page 1, line 3, "(a) and make it (c)." There being no objection, Amendment 1 to Amendment 3 was adopted.

[1:45:29 PM](#)

CHAIR CLAMAN offered that the second conceptual amendment he had had raised was whether anyone was interested in making "this subsection the prosecution applies to both (a) and what is now subsection (b), which would mean either the property damage or the serious physical injury section to apply for the prima facia evidence."

REPRESENTATIVE EASTMAN responded that he probably would not support that conceptual amendment because his intent is to solely to deal with subsection (c). He opined that under subsections (a) and (b), those are separate offenses and to treat them separately.

[1:46:09 PM](#)

REPRESENTATIVE LEDOUX advised that she would like to make sure that if someone has been found liable for either the strict liability or the two criminal negligence provisions, that it remains prima facia evidence.

CHAIR CLAMAN suggested that Representative LeDoux make a conceptual amendment that would read [under CSHB 259, AS 28.35.251(d), page 2, line 18], as follows: "(d) In a prosecution under (a) or (b) of this section ..."

REPRESENTATIVE LEDOUX related that she thought (a) or (b) of this section was the criminal negligence section.

CHAIR CLAMAN agreed that those are the criminal negligence sections, and the prima facia evidence relates to criminal negligence because if it is strict liability, the prima facia evidence of criminal negligence is not needed to prove a violation.

[1:47:40 PM](#)

CHAIR CLAMAN, in further response to Representative LeDoux, explained that there is an evidence rule that allows prior convictions of a similar crime to be introduced. For example, he said, if a person had a prior conviction for failure to secure a load and they were convicted either for the serious physical injury or the property damage, that prior conviction would be admissible in a subsequent prosecution.

REPRESENTATIVE LEDOUX agreed, and she asked, what if the person was convicted of strict liability. She referred to the person who goes to the dump and is cited for an unsecured load, and if five years later they've actually hurt someone, she wants this to be prima facia evidence of their criminal negligence. She commented that, due to all of the conceptual amendments, the committee is almost at the point where she needs to see [the amendments made into a committee substitute].

[1:49:27 PM](#)

REPRESENTATIVE EASTMAN advised that both in the bill language as written, and also in his amendment thus far, he was simply keeping the language on line 18, which specifically speaks to the prosecution under (a), which is any case where someone was hurt, there is this automatic look back. He said he is hesitant to extend that to a broader scope.

[1:50:22 PM](#)

CHAIR CLAMAN pointed out that the difficulty with his analysis is that when this referenced (a) on line 18, subsection (a) at the time of line 18, included both a first-degree offense for

causing serious physical injury and a first-degree offense for causing property damage. The differentiation the committee now has with the adoption of Amendment 1 between first-degree and second-degree did not exist, so when there is reference on line 18, "to a prosecution under (a) of this section" today as amended, that would actually need to be "a prosecution under (a) or (b) of this section" because at the time (a) was in the bill, the committee did not have two different offenses for first-degree and second-degree, both of which required criminal negligence. There was "(a) which was two different ways to have a class A misdemeanor, and you had (b) which was a strict violation offense," he said.

[1:51:25 PM](#)

REPRESENTATIVE EASTMAN related that there was another conversation about separating those, prior to this and prior to Amendment 1 being introduced, and that he was building on Amendment 1 in how he chose to write Amendment 3.

[1:51:50 PM](#)

The committee took an at-ease from 1:51 p.m. to 1:55 p.m.

[1:55:35 PM](#)

REPRESENTATIVE STUTES moved to adopt Conceptual Amendment 2 to Amendment 3.

[1:54:14 PM](#)

The committee took an at-ease from 1:54 p.m. to 1:55 p.m.

[1:55:32 PM](#)

REPRESENTATIVE STUTES moved to adopt Conceptual Amendment 2 to Amendment 3, as follows: [CSHB 259, AS 28.35.251(d)] "page 2, line 18, after the letter A, where it says: is guilty of a class A, I would like to insert 'or B.'" There being no objection, Conceptual Amendment 2 to Amendment 3 was adopted.

[1:56:16 PM](#)

REPRESENTATIVE KOPP offered concern regarding the 10 years look back and said he was trying to think if there is any consistency in the criminal law, wherein for a DUI or for certain theft cases there is a seven year look back. He asked whether this is

an outlier or whether it should be kept at seven years for purposes of continuity in the laws as far as a look back.

REPRESENTATIVE EASTMAN said he did not have an objection.

CHAIR CLAMAN asked Ms. Martin for insight in terms of the look back period, where the 10 years comes from, and other examples of look back in the law.

[1:57:12 PM](#)

MS. MARTIN responded that there are a number of statutes with look back periods and opined that it is more a policy decision as to how far back the committee wants to go.

CHAIR CLAMAN surmised that 10 years is not inconsistent with other statutes, some of which may read 7 years, and that the DUI statutes may read 15 years.

MS. MARTIN answered that Chair Claman was correct. She explained that there are some statutes where a previous conviction counts no matter how far back it went, there are 5, 10, and 15 years, with a broad range to look back.

[1:58:15 PM](#)

REPRESENTATIVE STUTES removed her objection to the motion to adopt Amendment 3, [as amended]. There being no further objection, Amendment 3, as amended, was adopted.

[1:58:38 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 4, labeled 30-LS0917\L.7, Martin, 3/2/18, which read as follows:

Page 3, lines 3 - 4:

Delete all material and insert:

"(f) In this section,

(1) "criminal negligence" has the meaning given in AS 11.81.900;

(2) "highway" means any paved area that is open to the public for vehicular traffic and regularly maintained by the state or a municipality."

REPRESENTATIVE STUTES objected.

[1:58:42 PM](#)

REPRESENTATIVE EASTMAN said that building on the previous hearings and conversations with other committee members, he would like to see a more clear and limited definition of "highway." He acknowledged that it refers to criminal negligence here, and Amendment 4 does not affect criminal negligence in any manner. The drafter had explained that how the committee is renumbering and reshaping it, the criminal negligence portion needed to be in here because it is still referenced in the amendment and the bill itself. The operative part of Amendment 4 is on Page 1, lines 5-6, which read as follows:

(2) "highway" means any paved area that is open to the public for vehicular traffic and regularly maintained by the state or a municipality.

REPRESENTATIVE EASTMAN explained that there are many other definitions of "highway" in the statutes that include everything from goat trails to "everything else." He opined that the intent in the discussions has been on what is traditionally understood as roads, streets, and highways, and this definition would capture all of those things.

[2:00:07 PM](#)

REPRESENTATIVE STUTES advised that she was opposed to Amendment 4 and deferred to Mr. Gruening.

[2:00:32 PM](#)

MR. GRUENING explained that the bill currently uses the existing and well-understood definition of "highway" under AS 28.28.990(14), which includes: nonpaved roads, and defines the highway as the entire width between the boundary lines that are publicly maintained when part of it is open to the public for vehicular travel. He clarified that it includes all streets and roads, regardless of whether they are paved, as well as the median, shoulder, and the ditch. The State of Alaska has an amazing number of unpaved roads that are part of the highway systems that are certainly for common vehicular use for the public. In contrast, he said, the definition in Amendment 4 only addressed paved road that are publicly maintained and only the portion of any highway that is actually paved, rather than including the median, shoulder, and ditch. The sponsor's primary concern is that there are many unpaved roads and it

appears unwise to define the boundaries of a highway in a more restrictive manner than in current statute.

REPRESENTATIVE STUTES maintained her objection.

[2:02:04 PM](#)

REPRESENTATIVE KOPP commented that there are many city streets that are gravel roads that the Municipality of Anchorage maintains which are in his district.

[2:02:29 PM](#)

REPRESENTATIVE EASTMAN withdrew Amendment 4.

[2:02:43 PM](#)

REPRESENTATIVE EASTMAN moved to adopt Amendment 5, labeled 30-LS0917\L.9, Martin, 3/2/18, which read as follows:

Page 3, lines 3 - 4:

Delete all material and insert:

"(f) In this section,

(1) "criminal negligence" has the meaning given in AS 11.81.900;

(2) "load" means material intentionally transported by the person to be offloaded at a destination, but does not include extraneous material such as litter, snow, mud, or ice."

REPRESENTATIVE STUTES objected.

[2:02:52 PM](#)

REPRESENTATIVE EASTMAN explained that Amendment 5 defines "load," and this is a law that is being expanded beyond professional truck drivers to affect anyone operating a vehicle. He said he wanted to make clear what it is that is being discussed with the word "load" because if there is not a definition, the public will look at "load" and think that it means "some big thing or some formal thing, or some professional thing, and certainly my little thing here isn't a load," and this definition clarifies exactly what is meant by "load."

[2:03:45 PM](#)

REPRESENTATIVE STUTES responded that she objects to Amendment 5 and deferred to Mr. Gruening.

[2:03:57 PM](#)

MR. GRUENING referred back to his previous testimony with one addition and said that a load is mentioned in several statutes, the littering statute and also in the confined load statute currently, but it is not defined anywhere in current statute. Through conversations with the drafter it became clear to the sponsor that it is a commonly understood term and trying to define "load" is problematic because it restricts the ability of the courts wherein it is defined on a case-by-case basis. Speaking directly to Amendment 4, he related that the three main issues are as follows: there can be many instances within which a person loaded into their vehicle with something the person did not intend to offload, such as a dog kennel, but it still presents a hazard if not properly secured; secondly, with regard to the intent to transport, but there could be instances wherein something was loaded on for storage without the intention of transporting the item, but forgot it was there when driving off - for the person seriously injured or whose property was damaged over \$5,000, whether it was intended for offloading or transport is not of high importance; and thirdly, regarding exclusion of extraneous material such as litter, snow, mud, or ice, the first issue is that the definition of litter under AS 46.06.150(5) includes waste materials, and waste could be something to be eliminated or discarded, such as a whole truck bed full of jagged pieces of scrap metal. The natural accumulation of snow, mud, or ice, is already exempted from the bill on page 2, lines 15-16, he pointed out.

[2:07:20 PM](#)

REPRESENTATIVE KOPP asked whether a similar situation to the dog kennel might be when a commercial toolbox or a fuel drum is in the bed of a truck.

MR. GRUENING agreed, and he responded that a person could have a toolbox in the bed of their truck that was not intended to be offloaded.

[2:08:12 PM](#)

REPRESENTATIVE STUTES maintained her objection.

[2:08:16 PM](#)

REPRESENTATIVE EASTMAN opined that the point about restricting the courts is important because without a definition of "load," any number of things could be violations under this law that is being created. The point is absolutely to limit the courts to something the public can clearly understand, and law enforcement can understand when enforcing this law. In the event "load" does not mean something that is intentionally being transported to then be offloaded, he commented that "load" is not quite the right word. He described that when you put something on your truck and you want to take it off, that's a load, he opined that the committee is trying to do something different and so he believes this definition is important to put into statute.

[2:09:40 PM](#)

A roll call vote was taken. Representative Eastman voted in favor of Amendment 5. Representatives Reinbold, Kopp, Kreiss-Tomkins, LeDoux, Stutes, and Claman voted against it. Therefore, Amendment 5 failed to be adopted by a vote of 6-1.

[2:10:12 PM](#)

CHAIR CLAMAN brought the bill, as amended, back before the committee.

[2:10:30 PM](#)

REPRESENTATIVE KREISS-TOMKINS commented that from the testimony, this is a legitimate issue and he appreciates the legislation because he did not know what to make of it when it first came into the committee. He opined that this legislation is better as it leaves the committee on a number of levels and he is excited to see it on its way through the legislative process.

[2:11:07 PM](#)

REPRESENTATIVE EASTMAN commented that currently there are a large number of statutes and the committee is now creating another law, which is of concern to him because while he did hear a number of national statistics, the only Alaska statistic provided was the reference to the people with unsecured loads traveling to the [Anchorage] dump. In the event that is the concern, the committee should focus this new law on that type of violation as people could be hurt by unsecured dump loads. Although, he noted that this is a more expansive law and it has the potential to "catch up" people who are not necessarily doing

anything wrong, or intending to do anything wrong, and now the state has to enforce this new law. The committee has not defined "load, other than stuff," which is concerning, he said.

[2:12:41 PM](#)

REPRESENTATIVE KOPP pointed out that reckless endangerment has always been on the books, a class A misdemeanor offense for creating any type of an unjustifiable risk to another human being, plus there are other ways to criminally charge. This legislation more narrowly focuses specific behavior on unsecured loads and it actually gives better guidance to public safety in many ways rather than having a general "catch all" statute. He opined that the fact the committee gave the legislation a criminal intent keeps the standard fairly high wherein a person can't just be a little bit negligent, the person has to be criminally negligent to be caught up in the criminal offense category. He said that he appreciates the amendments the committee members offered, and the amendment accepted from Representative Eastman, and he appreciates everyone working on this legislation together.

[2:13:59 PM](#)

CHAIR CLAMAN said he is reminded by this legislation that one of the most dangerous acts people take every day is getting into a car and driving somewhere. Society is actually comfortable with all sorts of regulations about cars, such as, who drives a car, where the cars are driven, and the manner in which the cars are driven. He referred to the testimony of the Anchorage woman who suffered at the hands of the driver with an unsecured load and noted that that is the sort of conversations people tell their legislators, which then leads the legislature to determine reasonable regulations and reasonable ways to manage the statistically dangerous activity of driving a car. He said he is pleased to support the legislation.

[2:14:47 PM](#)

REPRESENTATIVE STUTES advised Representative Eastman that her office has plenty of statewide statistics on crashes if he is interested. She thanked Chair Claman and Representative Kopp for their expertise in helping to craft this legislation. because public safety is paramount and this seems like such a simple fix. She reminded the committee that it received first-hand testimony from the Anchorage woman who was affected

personally, which is devastating and changes the course of people's lives.

[2:15:52 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to report CSHB 259, Version 30-LS0917\L, Bruce/Martin, 2/22/18, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 259(JUD) was reported from the House Judiciary Standing Committee.

[2:16:20 PM](#)

The committee took an at-ease from 2:16 p.m. to 2:18 p.m.

HB 319-RENEW MARIJUANA LICENSE:BACKGROUND CHECKS

[2:18:46 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 319, "An Act relating to criminal background checks for marijuana establishment registrations and renewals; and providing for an effective date." [Before the committee was CSHB 319(STA).]

[2:19:25 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to adopt Amendment 1, 30-LS1334\D.1, Radford, 2/28/18, which read as follows:

Page 1, line 14:
Delete "six"
Insert "10"

REPRESENTATIVE STUTES objected.

[2:19:35 PM](#)

REPRESENTATIVE KREISS-TOMKINS explained that Amendment 1 increases the current fingerprint requirement from six years to ten years because the ten years requirement is less of an intrusion and burden on proprietors of legal businesses. Ten years is still not quite what is required of proprietors of alcohol establishments, but it appears to be a fair compromise and the marijuana industry finds it reasonable, he offered.

[2:20:32 PM](#)

MEGAN HOLLAND, Staff, Representative Andy Josephson, Alaska State Legislature, advised that the sponsor reviewed the amendment and he does not support it for the same reasons as the Department of Commerce, Community & Economic Development (DCCED).

[2:21:33 PM](#)

KIM KOLE, Secretary/Board Member, Alaska Marijuana Industry Association, advised that the Alaska Marijuana Industry Association Board agreed that extending the fingerprint requirement to ten years will definitely be good for the license holders as well as their staff. She acknowledged that these individuals are already overworked and this will help ease their burden by giving them more time. A red flag could be raised if the committee moved the fingerprint requirement beyond ten years and Amendment 1 is a good compromise upon which everyone can agree, she pointed out.

[2:23:00 PM](#)

ERIKA MCCONNEL, Director, Alcohol & Marijuana Control Office, Department of Commerce, Community & Economic Development (DCCED), advised that AS 17.38.010(b)(2) read as follows:

(b) In the interest of the health and public safety of our citizenry, the people of the state of Alaska further find and declare that the production and sale of marijuana should be regulated so that ...

(2) legitimate, taxpaying business people, and not criminal actors, will conduct sales of marijuana; and

MS. MCCONNEL referred to AS 17.48.200(i), and paraphrased as follows:

(i) a marijuana establishment may not be registered, which means licensed, under this chapter if a person who is an owner, officer, or agent of the establishment has been convicted of a felony and either less than five years has elapsed from the time of the person's conviction, or the person is currently on probation or parole for that felony.

MS. MCCONNEL referred to 3 AAC 306.010, which read as follows:

(d) The board will not issue a marijuana establishment license to a person that

(1) is prohibited under AS 17.38.200(i) ...

[2:23:57 PM](#)

MS. MCCONNEL commented that the statutes and regulations are clear that there are certain criminal histories disqualifying for a period of a minimum of five years. On the alcohol side, she referred to AS 04.11.295 Criminal justice information and records statute, which read as follows:

(a) ... The board shall use the information obtained under this section in its determination of an applicant's qualification for issuance, transfer, or renewal of a license or a conditional contractor's permit.

MS. MCCONNEL referred to its regulations, and paraphrased as follows:

Factors the board will, in its discretion, consider in determining whether it is in the public interest to deny or revoke, suspend, or refuse to renew or transfer a license include that a person's criminal history.

[2:24:48 PM](#)

MS. MCCONNEL described it as "very black and white" on the marijuana side, and "very discretionary" on the alcohol side. In the event the background check period was to be extended to ten years, the department would not be able to say it was implementing and enforcing its statutes or be able to assure the public that the people are legitimate taxpaying businesses and that criminal actors are not conducting the sales of marijuana.

[2:25:20 PM](#)

REPRESENTATIVE EASTMAN noted that there are many different boards and licensing bodies in Alaska and if someone is convicted of a crime, depending upon the crime, they are at risk of losing their license and having their next license renewal turned down for that reason. He asked why that would not be the same for the Marijuana Control Board licenses and renewals because there is already the opportunity to identify whether

someone is committing crimes in Alaska. It was his understanding, he offered, that the only effect of this amendment is that the state does not require someone to check for recent crimes committed in other states, or federal crimes such as the federal marijuana laws. He asked why the legislature should treat this board so differently than other boards.

MS. MCCONNEL responded that marijuana is a highly regulated substance and it is illegal at the federal level. She referred to the "Cole Memorandum" and advised that it provided guidance by the United States Department of Justice on its enforcement priorities but it was recently rescinded so there is no longer that guidance in terms of how it will enforce federal law with respect to marijuana. At this time, she explained, marijuana licensees are different from other types of licensees. She related that her job, the job of the board and its staff is to enforce the statute. Her concern, as stated, is that with Amendment 1, it would not be able to inform the legislature that it is enforcing the rules the legislature provided to the department, she said.

[2:27:43 PM](#)

REPRESENTATIVE EASTMAN asked whether it is her professional belief that the ability of competitors to assist in policing this industry is different than competing businesses assisting in policing themselves in other industries.

MS. MCCONNEL asked whether his question was inferring that licensees would turn in other licensees if they were aware that someone had committed a crime.

REPRESENTATIVE EASTMAN explained that his question is that whenever the state enforces anything, it relies on industries policing themselves and providing that type of information if the state does not already have it at its disposal. He asked whether it is her understanding that this industry would not police itself.

MS. MCCONNEL answered that she has no reason to believe the people in the marijuana industry would operate differently from the people in other industries.

[2:30:00 PM](#)

NOAH STAR, Staff, to Representative Jonathan Kreiss-Tomkins, Alaska State Legislature, offered that the sponsor's conversations with the industry representatives indicate that the ten years requirement is consistent with what it would like to see and consistent with its interpretation of being in compliance with the statute.

REPRESENTATIVE KREISS-TOMKINS said he would be interested in the marijuana industry's response to Ms. McConnel's testimony.

CHAIR CLAMAN responded that the marijuana industry's position was previously offered.

[2:30:55 PM](#)

REPRESENTATIVE REINBOLD commented that she is a no-vote on this amendment because "I took a concealed carry, ten minutes to get fingerprints, no big deal." The marijuana industry is new and, she opined, the state needs to have extremely high standards and she would put the fingerprinting requirement at two years. She offered concern about edibles and that the legislature has an absolutely responsibility to the public to monitor this industry carefully. The transactions are all performed in cash which can cause the temptation to not pay taxes, and she does not know whether they are established taxpayers. She advised that the legislature needs to be cautious and that public safety is the highest mandate, and risks are associated with this industry so she will be a no-vote.

[2:32:42 PM](#)

REPRESENTATIVE KOPP opined that without the bill of which the amendment is to, the standard right now is annual fingerprint checking, and this bill changes it to fingerprints every six years. He asked whether his understanding was correct.

CHAIR CLAMAN related that Ms. Holland was nodding her head and indicating yes as to the current status.

[2:33:17 PM](#)

REPRESENTATIVE STUTES asked Ms. Holland whether the sponsor is amendable to this amendment.

MS. HOLLAND advised that the sponsor is not amenable to this amendment.

[2:33:48 PM](#)

REPRESENTATIVE EASTMAN commented that he supports Amendment 1 because it is simply a common-sense reduction in the size of wasteful government. Previously, he pointed out, testimony was heard wherein there has not been a single instance, in the four years since marijuana was legalized, where this background check has caught anyone doing anything wrong. Each year, every member of this industry must have a national background check involving fingerprinting, costs, and the involvement of state employees, he pointed out. He said that he has to ask why, and the only answer he can come up with is that those who opposed the legalization of marijuana four years ago feel more comfortable by continuing to have these regulations on the books. Thereby, he said, hoping that at some point it will catch someone running afoul of federal laws for doing the very thing Alaska legalized. The fact is that the federal government comes in and prosecutes someone for doing what Alaska has deemed legal, and while that may be a federal issue, it is not of great interest to him because the marijuana industry has been legalized. The public asked the legislature to regulate the marijuana industry and in regulating it, the legislature's responsibility is to regulate efficiently and this is neither efficient or prudent, it is just more government with little return to the taxpayer.

[2:35:54 PM](#)

CHAIR CLAMAN offered his understanding of the previous discussions that the real gist of this legislation is to have enough background checks to reassure the public, and to a lesser extent the federal government because "you never really know what makes the federal government happy, or not happy, or satisfied." The reason for the frequency of the fingerprinting requirement, in contrast to other professions and industries that require fingerprinting, is to go through the federal government background check at some periodic level. The marijuana industry is comfortable with this timing and he will follow the industry's request because he does not see this as critical to the state's supervisory role, he said.

[2:36:37 PM](#)

REPRESENTATIVE KREISS-TOMKINS noted that one of the primary functions of the fingerprinting requirement is to basically show the federal government that this is not a criminal enterprise or attract undue attention from the federal government. He pointed out that the marijuana industry has something to lose if it does

attract the federal government's attention, and an important and telling point is that the marijuana industry is supportive of the 10 years fingerprinting requirement and it does not feel that this timing will jeopardize the existence of the industry. Secondly, he offered, the other value of this is to prevent criminals from running these establishment. The state can already determine whether they are criminals in Alaska because the department has access to that data, and the value of these fingerprints in particular is to check whether these people have committed felonies outside of Alaska. He said that he struggles with the presumption that no matter how watered down the fingerprint requirement is, there is some likelihood that people are committing felonies outside of Alaska and the department needs to check it out on a relatively regular basis. He offered that the sponsor is carrying this legislation on behalf of the Department of Commerce, Community & Economic Development (DCCED) and he appreciates Ms. McConnel's comments, but there have not been any problems during the last four years and moving to 10 years is a reasonable compromise.

[2:38:33 PM](#)

A roll call vote was taken. Representatives Eastman, Stutes, Kreiss-Tomkins, and Claman voted in favor of the adoption of Amendment 1. Representatives Reinbold and Kopp voted against it. Therefore, Amendment 1 was adopted by a vote of 4-2.

[2:39:31 PM](#)

REPRESENTATIVE REINBOLD commented that she will be a no-vote on moving this bill out of committee because "I absolutely think we just made a silly mistake."

[2:39:48 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to report CSHB 319(STA), as amended, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE REINBOLD objected.

[2:40:01 PM](#)

A roll call vote was taken. Representatives Kreiss-Tomkins, Eastman, Stutes, and Claman voted in favor of the motion to report CSHB 319(STA), as amended, out of committee with individual recommendations and the accompanying fiscal notes.

Representatives Reinbold and Kopp voted against it. Therefore, CSHB 319(JUD) was reported out of the House Judiciary Standing Committee by a vote of 4-2.

[2:40:39 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:41 p.m.