

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 31, 2017

3:22 p.m.

**MEMBERS PRESENT**

Representative Sam Kito, Chair  
Representative Adam Wool, Vice Chair  
Representative Andy Josephson  
Representative Chris Birch  
Representative Gary Knopp  
Representative Colleen Sullivan-Leonard

**MEMBERS ABSENT**

Representative Louise Stutes  
Representative Mike Chenault (alternate)  
Representative Bryce Edgmon (alternate)

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S)

Board of Certified Direct-Entry Midwives

Kathryn Ostrom - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Pharmacy

James Henderson - Eagle River

- CONFIRMATION(S) ADVANCED

Board of Professional Counselors

Harold Henderson - Juneau

- CONFIRMATION(S) ADVANCED

CS FOR SENATE BILL NO. 14(FIN) AM

"An Act relating to transportation network companies and transportation network company drivers; and providing for an effective date."

- MOVED HCS CSSB 14(L&C) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 14

SHORT TITLE: TRANSPORTATION NETWORK COMPANIES

SPONSOR(s): SENATOR(s) COSTELLO

01/09/17	(S)	PREFILE RELEASED 1/9/17
01/18/17	(S)	READ THE FIRST TIME - REFERRALS
01/18/17	(S)	L&C, FIN
02/02/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/02/17	(S)	Heard & Held
02/02/17	(S)	MINUTE(L&C)
02/09/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
02/09/17	(S)	Moved CSSB 14(L&C) Out of Committee
02/09/17	(S)	MINUTE(L&C)
02/10/17	(S)	L&C RPT CS 2DP 3NR SAME TITLE
02/10/17	(S)	DP: COSTELLO, HUGHES
02/10/17	(S)	NR: MEYER, STEVENS, GARDNER
02/13/17	(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/13/17	(S)	Heard & Held
02/13/17	(S)	MINUTE(FIN)
02/15/17	(S)	FIN AT 9:00 AM SENATE FINANCE 532
02/15/17	(S)	Heard & Held
02/15/17	(S)	MINUTE(FIN)
03/02/17	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/02/17	(S)	<Above Item Removed from Agenda>
03/02/17	(S)	MINUTE(FIN)
03/06/17	(H)	L&C AT 3:15 PM BARNES 124
03/06/17	(H)	<Bill Hearing Canceled>
03/07/17	(S)	FIN AT 9:00 AM SENATE FINANCE 532
03/07/17	(S)	Moved CSSB 14(FIN) Out of Committee
03/07/17	(S)	MINUTE(FIN)
03/08/17	(S)	FIN RPT CS 1DP 6NR NEW TITLE
03/08/17	(S)	DP: MACKINNON
03/08/17	(S)	NR: HOFFMAN, BISHOP, VON IMHOF, DUNLEAVY, OLSON, MICCICHE
03/10/17	(H)	L&C AT 3:15 PM BARNES 124
03/10/17	(H)	<Bill Hearing Canceled>
03/23/17	(S)	TRANSMITTED TO (H)
03/23/17	(S)	VERSION: CSSB 14(FIN) AM
03/24/17	(H)	READ THE FIRST TIME - REFERRALS
03/24/17	(H)	L&C
03/31/17	(H)	L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

HAROLD HENDERSON, Appointee  
Board of Professional Counselors  
Wasilla, Alaska

**POSITION STATEMENT:** Testified as appointee to the Board of Professional Counselors.

WESTON EILER, Staff  
Senator Mia Costello  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented CSSB 14 (FIN) am on behalf of Senator Costello, prime sponsor.

KATHRYN OSTROM, Appointee  
Board of Certified Direct-Entry Midwives  
Homer, Alaska

**POSITION STATEMENT:** Testified as appointee to the Board of Certified Direct-Entry Midwives.

LAURA STIDOLPH, Staff  
Representative Adam Wool

**POSITION STATEMENT:** Explained changes made under the proposed House committee substitute for CSSB 14(FIN) am.

MITCHELL MATTHEWS  
Uber Technologies Inc.  
Seattle, Washington

**POSITION STATEMENT:** Testified in support of CSSB 14(FIN) am.

**ACTION NARRATIVE**

[3:22:25 PM](#)

**CHAIR SAM KITO** called the House Labor and Commerce Standing Committee meeting to order at 3:22 p.m. Representatives Sullivan-Leonard, Josephson, Wool, Birch, Knopp, and Kito were present at the call to order.

CONFIRMATION HEARING(S)

CONFIRMATION HEARING(S)  
Board of Certified Direct-Entry Midwives  
Board of Pharmacy  
Board of Professional Counselors

[3:23:09 PM](#)

CHAIR KITO announced that the first order of business would be confirmation hearings of the governor's appointments to various state boards and commissions.

[3:23:57 PM](#)

REPRESENTATIVE JOSEPHSON questioned Mr. Henderson regarding his application, which indicated there could be a potential financial conflict without an explanation.

[3:24:29 PM](#)

HAROLD HENDERSON, Appointee, Board of Professional Counselors, explained that he didn't want people to view his membership on the board as a means [for him] to recruit people for his practice.

[3:25:20 PM](#)

CHAIR KITO thanked Mr. Henderson for volunteering to serve. He stated that he would hold the motion until later in the meeting.

**SB 14-TRANSPORTATION NETWORK COMPANIES**

[3:25:32 PM](#)

CHAIR KITO announced that the next order of business would be CS FOR SENATE BILL NO. 14(FIN) am "An Act relating to transportation network companies and transportation network company drivers; and providing for an effective date."

[3:26:15 PM](#)

WESTON EILER, Staff, Senator Mia Costello, Alaska State Legislature, presented CSSB 14 (FIN) am on behalf of Senator Costello, prime sponsor. He stated that this is the "Let's Ride Alaska Act." It would authorize transportation network companies (TNCs), more commonly known as "rideshares," to operate in the state of Alaska. The proposed legislation would set the framework and safeguards that would enable TNCs, such as Uber and Lyft, to provide transportation services. These rideshares create a platform where Alaskans can "self-select each other to get from here to there." These services provide economic benefits and flexible employment for Alaskans and benefit a broad demographic in underserved areas. [TNCs] give

a connection when it's hard to get a cab, improve access to services, and lower the number of occurrences of driving under the influence (DUI). He indicated that the proposed legislation would offer a statewide solution while allowing municipalities to have a choice.

[3:30:09 PM](#)

MR. EILER spoke about the demand for services. For example: In 2014, Uber Technologies Inc. had over 100 drivers; over 2,000 Alaskans had the Uber Technologies Inc. application ("app") on their phone, and 60,000 opened the app just to see if the app was available. He related that 49 other states have rideshare options; Alaska is the last state without this service. He stated that this bill is necessary because it clarifies Alaska's workers' compensation insurance statutes, which will allow these companies to operate in Alaska. Previously when Uber Technologies Inc. operated in Anchorage, it was involved in talks with the Municipality of Anchorage and the State of Alaska, which resulted in Uber Technologies Inc.'s pausing its operations and signing a settlement. Part of that settlement was that [TNCs] would seek legislation that would add TNC drivers to the list of job classes and occupations in state statutes that are exempt from workers' compensation. TNC drivers are included in the same job class as taxi drivers. Mr. Eiler stated, "That was part of the clarity in the resolution that the company Uber Technologies Inc. reached with the Department of Labor in 2014 and is one of the essential reasons why there's a need for state legislation to help deal with this."

MR. EILER noted that Washington State exempts TNC drivers from workers' compensation. No jurisdiction considers TNC drivers as employees. TNC drivers would fit under the independent contractor concept. Drivers can work for a TNC on their own time and using their own vehicles, phones, and skills. A driver can work by turning an app on. To qualify to work for a TNC, a driver needs to meet the automobile and driving record standards for safety and accountability.

CONFIRMATION HEARING(S)

**CONFIRMATION HEARING(S)**

[3:35:13 PM](#)

CHAIR KITO announced that the next order of business would be confirmation hearings of the governor's appointments to various state boards and commissions.

[3:35:44 PM](#)

REPRESENTATIVE JOSEPHSON stated that Ms. Ostrom's application indicated that she would not disclose her personal financial data to the state and there could be a potential financial conflict, but Ms. Ostrom had not offered an explanation.

[3:36:10 PM](#)

KATHRYN OSTROM, Appointee, Board of Certified Direct-Entry Midwives, stated that the application details mentioned were done inadvertently. She noted that there is no conflict and she would disclose her financial data. She informed that she will be redoing her application.

[3:37:16 PM](#)

CHAIR KITO thanked Ms. Ostrom for volunteering to serve on the board. He reminded the members that signing the reports regarding appointments to boards and commissions in no way reflects members' approval or disapproval of the appointees, and that the nominations are merely forwarded to the full legislature for confirmation or rejection.

[3:37:32 PM](#)

REPRESENTATIVE WOOL moved to advance the list of the appointees to various boards and commissions reviewed by the House Labor and Commerce Standing Committee to the joint session of the House and Senate for consideration.

[3:37:40 PM](#)

CHAIR KITO objected for the purpose of acknowledging the names of the appointees whose confirmations had been reviewed [details provided in the committee calendar]. Chair Kito then removed his objection. There being no further objection, the confirmations for the three appointees were advanced.

[3:38:08 PM](#)

The committee took an at-ease from 3:38 p.m. to 3:40 p.m.

**SB 14-TRANSPORTATION NETWORK COMPANIES**

[3:40:02 PM](#)

CHAIR KITO announced the final order of business would be a return to CS FOR SENATE BILL NO. 14(FIN) am "An Act relating to transportation network companies and transportation network company drivers; and providing for an effective date."

[3:40:15 PM](#)

REPRESENTATIVE BIRCH stated that he is "a fan" [of rideshare services]. Regarding the idea of a limited passenger base, he asked if it was known if communities [using TNCs] have discovered an increase in customers because of the "ease of use" [of apps] and if there are any other jurisdictions that have documented results.

[3:41:11 PM](#)

MR. EILER clarified that TNCs do grow a customer base by making it easier for a passenger to get to his\her destination. TNCs make fares more affordable for passengers than regulated fares for the public provided thru car services or taxies. Rideshare services are also creating more forms of transportation. TNC services are accessed thru apps on a smartphone using a credit card. He stated that using a TNC app on a cell phone can allow a passenger to self-select the driver they want to use to take them to their destination. He stated that there had been studies that show TNC companies have been in operation for close to a decade and have not seen a significant demise or decline in the taxi industry. Mr. Eiler related that a study done by the Portland Bureau of Transportation showed the impact of initiating the operation of rideshare companies. That study showed there was an initial, short-term dip in the number of cabs hailed; however, over the past six-month period of the pilot, the study showed that for-hire transportation use grew by up to 40 percent.

[3:44:04 PM](#)

REPRESENTATIVE JOSEPHSON requested Mr. Eiler please describe how the system complements what cities are doing.

MR. EILER responded communities are in the process of looking at how they regulate for-hire taxi or car transportation services. The intention of the sponsor is to improve community

transportation. The Anchorage municipal assembly is phasing in its medallion permits. Other communities have Commercial Passenger Vehicles (CPV). The intent is to make it easier to get a ride and increase transportation in communities where there is clearly a demand.

REPRESENTATIVE JOSEPHSON asked Mr. Eiler if CSSB 14(FIN) am is sufficiently regulatory.

MR. EILER answered that 44 states regulate rides on a statewide level. The concerns mentioned regarding regulation, public safety insurance, and recourse are handled in the proposed bill: Rideshares would be required to follow all traffic and public safety laws; and drivers must hold both drivers and business licenses, which provide recourse if there are any issues that might arise. These rideshares have a large amount of feedback and self-correction by their customers and drivers. These companies continually evaluate and review the rankings that both drivers and riders receive. For example, if a bad driver is not meeting the standards, being unfriendly, arriving late, or acting in an aggressive manner, then driver and passenger receive instantaneous feedback by the TNC companies. Mr. Eiler said the prime sponsor is comfortable with the structure and the set-up that's provided and believes that it provides for the necessary safeguards to have rideshares come to Alaska.

[3:47:11 PM](#)

REPRESENTATIVE JOSEPHSON questioned if independent contractors in Seattle are treating these folks as employees and whether California is still debating this.

MR. EILER stated no statewide jurisdictions consider rideshare drivers to be employees. The State of Oregon, on a regulatory level, had determined that rideshare drivers are not employees and were thus exempt from workers' compensation. The State of Washington removes rideshare drivers from the state's workers' compensation program. As a result, rideshare services fit under the independent contractor's model, exempting them from workers compensation along with taxi cab drivers and other comparable professions.

REPRESENTATIVE JOSEPHSON stated that many states do not describe these types of drivers as independent contractors but leave that question open for a court of law to determine.

MR. EILER answered he would provide comparative information from the rideshare companies and that the information is accessible on-line. He also stated that several states are silent about how they define or frame the concept of an independent contractor in their statutes. States like Arkansas have a 5-prong variety of test they put in statute. No state considers TNC drivers to be employees.

[3:49:46 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD stated that she supports the bill and thinks of it more like an economic overview. She said she encourages new development in the state and wants to continue to encourage new businesses to come to Alaska and invest. She asked how many jobs Lyft and other TNC companies will bring to the state. She asked Mr. Eiler to start with numbers for the city of Anchorage, Alaska.

MR. EILER said he would be happy to provide data showing the benefits that these companies and this type of technology have offered across the country. What's seen is that Lyft, Inc., estimates that it adds \$750 million to the economies around the country. The company has seen and sighted an increase in spending of 49 percent. Surveys have shown that 60 percent of respondents either agree or strongly agree that Lyft provides access to more areas. The bill sponsor's staff have spoken to stakeholders that say this type of job fits their lifestyle very well for the types of citizens that are in Alaska. For example, being a rideshare driver is one of the few side jobs that the active duty military can take, because it is flexible. Specific figures for Uber Technologies Inc. are unavailable, since the company had only been in Alaska for just a few months in 2014. At that time, Uber Technologies Inc. had over 100 drivers. Mr. Eiler stated that if these new technologies and opportunities are allowed, and the choice and competition can come into Alaska, then the prime sponsor thinks that this can transform and catapult Alaska's economy in ways that can't even be enumerated.

[3:53:05 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD requested to see the numbers. Regarding her constituency in the Matanuska-Susitna (Mat-Su) Valley, she related there are a lot of families that work part-time jobs because that's what is available in that area; being able to work for a rideshare service would be highly desirable.

3:53:32 PM

REPRESENTATIVE KNOPP stated that while he thinks TNCs are an upcoming technology, he does not like the proposed legislation. He said he is an advocate for local control. He related that in the Kenai Peninsula Borough, people must register as independent contractors and have business licenses to collect sales tax. He said he is not certain SB 14 would regulate independent contractors; it would regulate TNC companies providing the applications. He warned that in its eagerness to "get this thing coming," the committee is "not thinking this thing through." He said Alaska is probably the last state trying to adopt [legislation regulating TNCs]; other states have gone through changes in regulations and have adopted more regulations. He questioned what the outcome of such legislation would be.

REPRESENTATIVE KNOPP noted that there is a zero fiscal note accompanying CSSB 14(FIN) am but predicted that the Division of Licensing would "get bombarded with applications for business licenses." He said he would be more comfortable if the proposed legislation were to offer the basics regarding insurance requirements and driver and vehicle inspections, while local jurisdictions could take care of "the issues that will eventually arise." He indicated that the committee had received numerous letters of objection from local governing bodies that do not want to have "that option." Regarding independent contractor licensing and registration, he asked, "Will this bill really extend to those drivers?"

3:58:12 PM

MR. EILER expressed that Senator Costello's intention was not to increase burdens. Conversely, he said she sees CSSB 14(FIN) am as a "great positive" that will "grow the number of people registering for business licenses in the state." He offered to follow up with Representative Knopp's staff to clarify insurance coverage or any other questions regarding the bill. Other states have a variety of ways to define and outline the concept of working as an independent contractor (IC). When the company Uber Technologies Inc. operated in the state of Alaska in 2014, the first page of the settlement it signed with the Department of Labor and Workforce Development said that it would not resume operations or seek to continue activities unless state law specifically exempted TNC drivers from workers' compensation. Insurance is the purview of the State of Alaska. The legislature sets the statutes on that, and there can be the

additional requirements on taxi drivers or others. He emphasized that under CSSB 14(FIN) am transportation companies would be responsible for "insurance that exceeds ... any local jurisdiction in the state of Alaska." He mentioned statute related to independent contractors and consideration by the administration for the further definition in statute.

[4:02:40 PM](#)

REPRESENTATIVE KNOPP stated that he would like to see TNCs in Alaska. He reiterated that independent contractors are exempt from workers' compensation insurance and must have a business license. He suggested removal of "local control language."

[4:04:11 PM](#)

CHAIR KITO interjected that Representative Knopp was referring to a committee substitute that had not yet been adopted.

[4:04:56 PM](#)

REPRESENTATIVE WOOL moved to adopt the proposed House committee substitute (HCS) for CSSB 14(FIN) am, labeled 30-LS0250\L, Wallace, 3/31/17, as a working document.

[4:05:09 PM](#)

CHAIR KITO objected for discussion purposes.

[4:05:30 PM](#)

LAURA STIDOLPH, Staff, Representative Adam Wool, Alaska State Legislature, stated that version L would incorporate changes that the companion bill [HB 132] made in the House, as well as incorporate some amendments that had been made by the Senate. It would involve a more prescriptive, seven-year lookback at crimes that would disqualify a person from being a driver for a TNC. There would also be a three-year lookback at their moving violations which may also disqualify a person.

MS. STIDOLPH said the first change was on page 8, line 24, adding AS [23.10.699] and AS 23.30.395 to clarify a more independent contractor language in statute. Language on page 9, lines 27-31, through page 10, lines 1-21 were removed and the following language was added:

(b) A transportation network company may not allow a driver to accept trip requests through its digital network if the driver

(1) has, in the past three years,

(A) been convicted of or forfeited bail for a third or subsequent moving traffic violation;

(B) been convicted of

(i) driving while license canceled, suspended, revoked, or in violation of a limitation under AS 28.15.291;

(ii) failure to stop at the direction of a peace officer under AS 28.35.182;

(iii) reckless or negligent driving under AS 28.35.400 or 28.35.410; or

(iv) a law or ordinance of another jurisdiction having similar elements to an offense listed in (i) - (iii) of this subparagraph;

(2) has, in the past seven years, been convicted of

(A) any offense that is an unclassified, class A, or class B felony in this or another jurisdiction; or

(B) a misdemeanor involving

(i) a crime under AS 28.33.030, AS 28.35.030, or 14 28.35.032;

(ii) a crime under AS 28.35.050 or 28.35.060;

(iii) a crime against a person under AS 11.41; or

(iv) a law or ordinance of another jurisdiction having similar elements to an offense listed in (i) - (iii) of this subparagraph;

(3) is listed on the United States Department of Justice National Sex Offender Public Website; or

(4) is under 21 years of age.

(c) A transportation network company driver may not

(1) provide a prearranged ride unless the transportation network company rider has been matched to the driver through the digital network of the transportation network company;

(2) solicit a ride or accept a street hail request for a ride; or

(3) solicit or accept cash payments for a fare from a rider.

[4:12:01 PM](#)

REPRESENTATIVE JOSEPHSON asked, "What are the changes between 'E' and 'L'?"

MS. STIDOLPH answered, "'E' and 'L' were the two ... statutes that clarified 'independent contractor' language in Alaska statute."

[4:12:26 PM](#)

REPRESENTATIVE BIRCH asked for confirmation that [Version L] had been reviewed with TNCs.

MS. STIDOLPH answered, "Yes, it has been reviewed by the TNC."

[4:12:51 PM](#)

REPRESENTATIVE KNOPP cited language on page 8, line 23, which states that a TNC "is not an employer of Transportation Network Company drivers", and noted language beginning on line 24 states that a TNC driver "is an independent contractor for all purposes". He said he doesn't believe the proposed legislation applies to TNC drivers as independent contractors; he thinks it refers to the company and not the driver.

[4:14:42 PM](#)

The committee took an at-ease from 04:14 p.m. to 04:19 p.m.

[4:19:54 PM](#)

CHAIR KITO removed his objection to the motion to adopt the proposed HCS for CSSB 14(FIN) am, labeled 30-LS0250\L, Wallace, 3/31/17, as a working document. There being no further objection, Version L was before the committee as a working document.

[4:20:37 PM](#)

REPRESENTATIVE JOSEPHSON moved to adopt Amendment 1, labeled 30-LS0250\I.A.1, Wallace, 3/28/17, which read as follows:

Page 10, line 30, following "**Records.**":  
Insert "(a)"

Page 11, following line 6:  
Insert new material to read:

"(b) Except for specific information about a transportation network company rider, including the rider's name, address, and telephone number, a transportation network company shall provide a transportation network driver information for each ride the driver completes, including global positioning data, the fare and tip paid by the rider, and the rate charged.

**Sec. 28.23.130. Prohibitions.** A transportation network company may not

(1) take adverse action against a transportation network company driver, including restricting the driver's tips or suspending or terminating the driver's participation in the company's digital network, as a result of the driver

(A) organizing or joining a driver association or labor organization or participating in a driver association or labor organization or the activities of the driver association or labor organization;

(B) decreasing the driver's participation in the company's digital network; or

(C) generating less fare or tip income;

(2) change a compensation rate or other material term of a contract with a driver without the driver's voluntary prior consent, if the contract is based on the driver providing a ride to a transportation network company rider."

[4:20:42 PM](#)

REPRESENTATIVE WOOL objected.

[4:20:46 PM](#)

REPRESENTATIVE JOSEPHSON spoke to Amendment 1. He said the proposed amendment would show drivers how a rate was derived. He said he's heard that TNCs routinely change rates, which, to him, means the drivers are not independent contractors, because "generally you wouldn't impose such a thing on an independent contractor and get away with it." He indicated that a TNC company cannot do anything to prohibit the efforts of TNC drivers to "organize."

[4:21:44 PM](#)

REPRESENTATIVE WOOL said, "Some of this is just the terms of service between a business and independent contractor; so, I don't feel the need to ... legislate it."

[4:22:58 PM](#)

The committee took an at-ease from 4:22 p.m. to 4:23 p.m.

[4:23:21 PM](#)

CHAIR KITO clarified that Amendment 1 was written to a prior committee substitute and, if adopted, would be conformed to Amendment 1 by Legislative Legal and Research Services.

[4:23:57 PM](#)

REPRESENTATIVE WOOL surmised that the place for Amendment 1 in Version L would be in "the records section" on page 11, line 8. He noted that a previous testifier had said [TNCs] frequently were changing the rates and changing what the driver was earning. He recollected he had spoken with someone associated with Uber Technologies Inc., who said rates are decreased, but infrequently. He mentioned surge pricing, which gives incentives to drivers not currently on the network during rush hour or times when there is a high demand and low supply. He offered his understanding that this is a regular practice. He said that other than surge pricing, he didn't think fare changing was common.

[4:26:46 PM](#)

MITCHELL MATTHEWS, Uber Technologies Inc., stated that Uber Technologies Inc. has dynamic pricing at times when there is high demand and limited supply. In terms of more general changes to fare structures, he said Uber Technologies Inc. would issue an agreement to the driver to which the driver would have to agree. He said rates in Seattle, Washington, have not been cut since he joined the organization and rates have been raised in other markets. He said rates can go both ways, up or down. Regarding Amendment 1, Mr. Matthews mentioned information related to global positioning data and anonymity for privacy purposes, and he opined that the proposed amendment is ambiguous.

[4:28:25 PM](#)

REPRESENTATIVE JOSEPHSON offered his understanding that Mr. Matthews had stated that the TNC would make the driver aware of changing fares and that the driver must agree to the changes. Based on that, he said he doesn't understand how a driver could be considered an independent contractor.

MR. MATTHEWS explained that in Seattle it's not just the TNCs that can set fares by the minute, mile, or base fare; for-hire companies within Seattle are able to set their fares by the minute, the mile, and associated time value. He continued:

So, that information is what would be adjusted. We wouldn't change the fare that a driver would be given; the fare is based off that base calculation of time, space, and distance. ... That would be a change to a market, based off of pricing. And so, the driver doesn't have to necessarily agree with that, but that's the pricing in the market, and we would issue a service fee addendum on there, and they would be able to drive on another TNC that may have different pricing within the market. So, if Lyft or another TNC came to Alaska, there [are] other apps out there that they would be able to use if they didn't agree with the fares that were set that make up that minute, mile, and base fare on the Uber platform specifically.

[4:30:01 PM](#)

REPRESENTATIVE BIRCH states that he doesn't see [Amendment 1] as helpful; therefore, he does not support it.

[4:30:34 PM](#)

A roll call vote was taken. Representative Josephson voted in favor of Amendment 1. Representatives Sullivan-Leonard, Wool, Birch, Knopp, and Kito voted against it. Therefore, Amendment 1 failed by a vote of 1-5.

[4:31:12 PM](#)

REPRESENTATIVE JOSEPHSON stated that he's disappointed that the legislature couldn't craft a TNC bill where "everyone wins." He said that he is frustrated because he thinks that "local governments deserve to regulate this as they are each unique." He noted that TNCs don't pass the Internal Revenue Service's (IRS') test regarding who does the hiring, supervision, and paying. He pointed out that there is a continuing relationship

between workers and employers. He mentioned the "number 12 test" of the IRS - payment by the hour, week, or month - and said, "This points to an employer/employee relationship, provided that this method of payment is not just a convenient way of paying a lump sum agreed on as the cost of the job." He said independent contractors are paid by the job or on straight commission, but what makes this a quasi-independent contractor situation is that the TNC is buying insurance from an independent contractor, which he opined is "nice but "odd." He said there is also a situation in which there is fluctuating pay. He remarked that if he, as a lawyer, agrees to take on a job for \$50 an hour and halfway thru the job the client says he/she will pay \$35 an hour, then he, the lawyer, could sue that client and win. He said, "And I don't get that. I mean, that suggests they're employees. They also don't get the money in the first instance; they get it in the second instance. That doesn't suggest that they're independent contractors."

REPRESENTATIVE JOSEPHSON said his concern is not with the passengers but with the app not being on despite [the driver] still being in "an employment stage, because they're about to shift it on and they're driving across town to get to where the action is for future rides." He said everything in the law tells him that "these are common carriers or at least contract carriers; they're not just individuals driving around; they're taking people's lives in their hands." He said he think most of the time things will work out, but sometimes it will not.

[4:34:56 PM](#)

REPRESENTATIVE JOSEPHSON referenced a Washington Post article from June 27, 2016, and other online publications. He expressed concern that after paying their expenses Detroit drivers will make \$8.10 an hour, Houston drivers will make \$9.93 an hour, and Denver drivers will make \$12.17; the Detroit drivers won't even make minimum wage. He questioned whether this is the best lifestyle for TNC drivers. He said he is worried that the drivers may forgo other work and make this their primary way to earn income. He reiterated that he is disappointed that there hasn't been something better developed with the drivers in mind. He said TNC companies violated the law by coming to Alaska before they were regulated. He expressed concern that in Paris, TNC drivers were asking passengers to help pay for the cost of damages done by rioters.

REPRESENTATIVE JOSEPHSON noted that the Municipality of Anchorage supported Uber Technologies Inc. and Lyft. He continued:

So, it's ultimately coming down on the side of the TNCs, but not without real regulation. And we're saying, "All of that work goes away; we don't need to know about that work."

REPRESENTATIVE JOSEPHSON said although it may sound like he knows how he will vote, he has not yet made that determination. by a vote of 8-3; therefore, it's coming down on the side of the TNC, but not without regulation." He reiterated his disappointment that a better plan could not be made, and he expressed concern about the chaos that could result without local control.

[4:38:22 PM](#)

REPRESENTATIVE BIRCH spoke in support of Version L and the TNC initiative, in general. He said overregulation stifles economic development and opportunity. and he opined that the action of Anchorage to open up the community to ridesharing is a good indication of "the success this has had." He said the proposed legislation is "a good effort" and he looks forward to moving it out of committee.

[4:39:21 PM](#)

CHAIR KITO commented that a lot of work has gone into the proposed legislation and, while perfection may not be achieved the first time around, the committee needs to start thinking about how it will help a new industry come to Alaska, because it is "a new paradigm in our state" whose "time has come."

[4:40:13 PM](#)

REPRESENTATIVE WOOL said he understands the concerns that have been expressed related to labor issues, independent contractors, workers' compensation, and local municipalities. He said many of the concerns were addressed in Version L, including the age of the driver. He said he understands concerns about safety of drivers and of people on the road, in general. He indicated that people may go out more and be safer [when using TNCs]. He emphasized that he is not "taking a slam at cabs by any stretch." He said he doesn't think local governments "have been all that great to cabs either." He mentioned the decisions

being made about "medallions" and ventured that the municipality probably would rather not deal with that issue. He said he knows that Alaska is not a densely populated state, but there are some communities that border each other, and he does not think TNCs are going to come to each municipality separately to negotiate a deal about insurance, for example. He said in Las Vegas, Nevada, there is a taxi line outside establishments, and now there is also an Uber/Lyft line, which means that the idea is being embraced. He said he thinks any bugs will be worked out, and he said he thinks Alaska needs [TNCs].

REPRESENTATIVE WOOL, regarding concerns about minimum wage or how much a driver makes, said a cab driver leases a cab, buys gas, and drives, but has no guarantee of making money. He said that is the reality of certain types of businesses. Regarding Representative Josephson's scenario in which the payer drops the rate, Representative Wool said, "Well, in the middle of a ride, I don't think your rate's going to go down either." He noted that Mr. Mitchell had said the rates in Seattle had not gone down in years. He talked about businesses adapting, and he said, "We can make changes and adaptations, as needed."

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REPRESENTATIVE WOOL gave the example of Netflix which used to mail digital video disk [DVDs] to clients' homes, but now the majority of its business is streaming video. He opined, "Cabs have apps; it's the future, and we can sit around and watch it go by, or we can get onboard, and we can make changes and adaptations."

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CHAIR KITO recognized former House Labor and Commerce Standing Committee Chair, Representative Kurt Olson, was in the committee room.

[4:45:15 PM](#)

REPRESENTATIVE WOOL moved to report HCS CSSB 14(FIN) am, Version 30-LS0250\L, out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HCS CSSB 14(L&C) was reported out of the House Labor and Commerce Standing Committee.

[4:46:12 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:46 p.m.