

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

April 17, 2017

3:19 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Gary Knopp
Representative Mike Chenault (alternate)
Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 195

"An Act relating to insurer actions based on credit history and insurance scores at insurance policy renewal; and providing for insurer consideration of consumer requests for exceptions of credit history or insurance scores."

- MOVED HB 195 OUT OF COMMITTEE

HOUSE BILL NO. 222

"An Act relating to the licensure of nail technicians; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 93

"An Act relating to security freezes on the credit reports or records of incapacitated persons and certain minors."

- HEARD & HELD

SENATE BILL NO. 64

"An Act adopting the Uniform Environmental Covenants Act; relating to environmental real property covenants and notices of activity and use limitation at contaminated sites to ensure the

protection of human health, safety, and welfare, and the environment; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 195

SHORT TITLE: INSURER'S USE OF CREDIT HISTORY/SCORES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/24/17	(H)	READ THE FIRST TIME - REFERRALS
03/24/17	(H)	L&C
04/05/17	(H)	L&C AT 3:15 PM BARNES 124
04/05/17	(H)	Heard & Held
04/05/17	(H)	MINUTE(L&C)
04/14/17	(H)	L&C AT 3:15 PM BARNES 124
04/14/17	(H)	Scheduled but Not Heard
04/17/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 222

SHORT TITLE: LICENSURE OF MANICURISTS/NAIL TECHS

SPONSOR(s): CLAMAN

04/08/17	(H)	READ THE FIRST TIME - REFERRALS
04/08/17	(H)	L&C
04/17/17	(H)	L&C AT 3:15 PM BARNES 124

BILL: SB 93

SHORT TITLE: CREDIT REPORT SECURITY FREEZE

SPONSOR(s): COGHILL

03/13/17	(S)	READ THE FIRST TIME - REFERRALS
03/13/17	(S)	L&C
03/28/17	(S)	L&C AT 9:00 AM BELTZ 105 (TSBldg)
03/28/17	(S)	Bill Postponed to 1:30 p.m. 3/28/17
03/28/17	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/28/17	(S)	Heard & Held
03/28/17	(S)	MINUTE(L&C)
04/04/17	(S)	L&C RPT 5DP
04/04/17	(S)	DP: COSTELLO, HUGHES, STEVENS, MEYER, GARDNER
04/04/17	(S)	L&C AT 9:00 AM BELTZ 105 (TSBldg)
04/04/17	(S)	Moved SB 93 Out of Committee
04/04/17	(S)	MINUTE(L&C)
04/10/17	(S)	TRANSMITTED TO (H)
04/10/17	(S)	VERSION: SB 93

04/11/17 (H) READ THE FIRST TIME - REFERRALS
04/11/17 (H) L&C
04/17/17 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 64

SHORT TITLE: UNIFORM ENVIRONMENTAL COVENANTS ACT

SPONSOR(s): MICCICHE

02/17/17 (S) READ THE FIRST TIME - REFERRALS
02/17/17 (S) CRA, L&C
02/28/17 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
02/28/17 (S) Heard & Held
02/28/17 (S) MINUTE(CRA)
03/07/17 (S) CRA AT 3:30 PM BELTZ 105 (TSBldg)
03/07/17 (S) Moved SB 64 Out of Committee
03/07/17 (S) MINUTE(CRA)
03/08/17 (S) CRA RPT 2DP 2NR
03/08/17 (S) DP: BISHOP, HOFFMAN
03/08/17 (S) NR: MACKINNON, STEDMAN
03/14/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/14/17 (S) Heard & Held
03/14/17 (S) MINUTE(L&C)
03/16/17 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/16/17 (S) Moved SB 64 Out of Committee
03/16/17 (S) MINUTE(L&C)
03/20/17 (S) L&C RPT 1DP 3NR
03/20/17 (S) NR: COSTELLO, HUGHES, GARDNER
03/20/17 (S) DP: STEVENS
03/27/17 (S) TRANSMITTED TO (H)
03/27/17 (S) VERSION: SB 64
03/29/17 (H) READ THE FIRST TIME - REFERRALS
03/29/17 (H) CRA, L&C
04/11/17 (H) CRA AT 8:00 AM BARNES 124
04/11/17 (H) Heard & Held
04/11/17 (H) MINUTE(CRA)
04/13/17 (H) CRA RPT 4DP 1NR
04/13/17 (H) DP: WESTLAKE, TALERICO, FANSLER, PARISH
04/13/17 (H) NR: RAUSCHER
04/13/17 (H) CRA AT 8:00 AM BARNES 124
04/13/17 (H) Moved SB 64 Out of Committee
04/13/17 (H) MINUTE(CRA)
04/17/17 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

LORI WING-HEIER, Director
Division of Insurance

Department of Commerce, Community, and Economic Development
State of Alaska
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to HB 195.

OWEN PHILLIPS, Staff
Representative Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Claman, prime sponsor, introduced HB 222.

JEANNINE JABAAY
Hope, Alaska

POSITION STATEMENT: Testified in support of HB 222.

RACHEL LAUESEN, Attorney
Fortier & Mikko, P.C.
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 222.

BEVERLY HARPER
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 222.

KEVIN MCKINLEY, Chair
Board of Barbers and Hairdressers
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 222.

RYNNIEVA MOSS, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Senator Coghill, prime sponsor, introduced SB 93.

CARLIE CHRISTENSEN, Director of Government Relations
Equifax Inc.
Atlanta, Georgia

POSITION STATEMENT: Testified in support of SB 93.

SARAH LASHFORD, Manager of Government Relations
Consumer Data Industry Association (CDIA)
Washington D.C.

POSITION STATEMENT: Testified in support of SB 93.

SENATOR PETER MICCICHE
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor introduced SB 64.

KRISTIN RYAN, Director
Division of Spill Prevention & Response
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 64.

JENNIFER CURRIE, Senior Assistant Attorney General
Environmental Section
Civil Division (Anchorage)
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to SB 64.

ACTION NARRATIVE

[3:19:53 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:19 p.m. Representatives Kito, Sullivan-Leonard, Stutes, Birch, Josephson, and Wool were present at the call to order.

HB 195-INSURER'S USE OF CREDIT HISTORY/SCORES

[3:20:30 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE BILL NO. 195, "An Act relating to insurer actions based on credit history and insurance scores at insurance policy renewal; and providing for insurer consideration of consumer requests for exceptions of credit history or insurance scores."

CHAIR KITO noted public testimony was still open on HB 195. After ascertaining that no one wished to testify, he closed public testimony.

[3:21:31 PM](#)

REPRESENTATIVE WOOL stated he wanted to offer an amendment but didn't have time and that he personally opposes using credit scores to assess insurance fees and rates. He related that studies by the Federal Reserve and others show that credit

scores disproportionately affect people of color and minorities who tend to have poor credit and so get assessed a higher rate, which is his problem with the bill.

REPRESENTATIVE STUTES said she doesn't have affection for the bill either way. She asked Representative Wool what type of amendment he was considering.

REPRESENTATIVE WOOL responded that when someone is offered a policy the insurance company may use the person's credit score and then after one year the company needs authorization to continue to use a credit score. He said his understanding that "may" use credit score is often that the company does use credit score and the applicant doesn't have a choice. Therefore, he would like a possibility to opt out. He surmised insurance companies wouldn't want that because it is to their advantage to have this tool at their disposal. Nowadays with people undergoing more economic hardship, studies often show that people put medical expenses on their credit card and these are people that have insurance but are incurring medical bills while costs are going up all the time. As people incur more balances on more cards, they have a lower credit rating. He said he wanted to discuss whether the option to opt out entirely would be possible.

[3:24:08 PM](#)

REPRESENTATIVE BIRCH spoke in support of HB 195. He related a personal experience when his insurance went up because under current state law access to credit scores is not permitted for purposes of policy renewal for automobile insurance. As a practical matter, he said, credit score is used routinely. For example, he spent nine years on the board of Chugach Electric Association where it was routinely used instead of requiring a deposit for determining whether someone was a good risk for advancing a month's worth of utilities. It is a reasonable approach, he opined. Credit score is a mechanism to mitigate risk in the commercial world. The use of credit score in this proposal is balanced and reasonable and is widely accepted from an industry standpoint, and therefore he is a yes vote.

[3:25:28 PM](#)

REPRESENTATIVE STUTES related that she called the main insurance carrier in Kodiak to ask about [HB 195], and [the agent] responded that of course the companies he represented wanted it, but that he didn't have a preference. She further related that

when she asked [the agent] how he would vote on it, he hesitated for a while and then said he didn't really know. She said she found this interesting because she had thought that being from the industry [the agent] would have been in favor of the bill. Based on that experience, she said, "I'm not crazy about it either way." She stated she is at the will of the chair.

[3:26:19 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD, regarding people's consideration of updating their information on a yearly basis, remarked that an annual check on credit score for insurance renewal affects a person's score, and she said she thinks "that's where people have heartburn." She said if there were a process that could show that having the forms pre-signed ready to go on a yearly basis was a good thing and may not affect someone personally, then she may support it, but she has a lot of questions on that.

REPRESENTATIVE STUTES related that she asked her insurance carrier that very question on checking the credit score and was told that it is called a soft credit check, which has no effect on someone's credit score.

[3:28:12 PM](#)

CHAIR KITO asked whether the use of credit scores by insurance companies to determine a person's insurance rate would [adversely] effect a person's credit score.

LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community, and Economic Development, State of Alaska, replied that it should not [affect a person's credit score].

MS. WING-HEIER further commented that after the committee last heard the bill, she researched the matter brought up by Representative Wool about the medical industry or medical codes. She found that Alaska Statute (AS) 21.36.960 would prohibit the use of medical for credit scoring for this bill for insurance purposes.

CHAIR KITO inquired as to how an insurance company would present using credit score for a rate calculation.

MS. WING-HEIER replied that according to insurance underwriting guidelines the insurance company would ask [an applicant/client] questions regarding type of auto, driving history, driving

record, place of residence, and distance driven to work. The insurance company would also ask and provide in writing that it is going to order up credit history. A person has the right to say no and does not have to allow the use of his or her credit score, and can opt out in the very beginning, although this may result in not being given a preferred rate. If there is an adverse reaction that the company would take because it determines a person's credit score is not positive or it was going to impact the person's insurance premium, then the company is required to advise the person, in writing, what that decision was based on, and that is part of what this bill is doing.

[3:30:21 PM](#)

CHAIR KITO offered his understanding that HB 195 would provide that a person could opt out at the beginning of what is already the law. This bill would say that if credit score is used for a "re-up" and that changes in a dispositive way the company is required to notify the person that that took place.

MS. WING-HEIER answered that HB 195 clarifies for both new business and renewal business that [the insurance company] has to tell a person in writing why he or she is materially impacted by the ordering of his or her credit score, what it was, and that the person has the right to appeal it to the Division of Insurance through the extenuating life circumstances provision.

[3:31:02 PM](#)

REPRESENTATIVE WOOL offered his understanding that a person who opts out of the credit score option would not get a preferred rate and would be charged more. He asked whether a person would be able to also look at what his or her rate would be if the company did do a credit score analysis and then compare the two, or would it just be a matter of rolling the dice.

MS. WING-HEIER offered her belief that it would be a roll of the dice - a person either allows or disallows the use of his or her credit score. She added that once the credit score was given, she doesn't know how it would be taken back.

REPRESENTATIVE WOOL posed a scenario where on the first year a person chooses not to allow the insurance company to use his or her credit score. He inquired whether upon year one rolling around, and if HB 195 is enacted, the insurance company could use the person's credit score without his or her approval.

MS. WING-HEIER replied no, at the time of applying for insurance a person must give the insurance company permission to use his or her credit score forever. Permission either is given or not given. Upon renewal a person could go back to the broker and give permission to begin using his or her credit score beginning now. But, if permission is not given, the insurance company cannot use a person's credit score at any time.

REPRESENTATIVE WOOL offered his understanding that when someone initiates an insurance policy, they either give permission for use of their credit score or don't and won't know whether their credit score would have given them a lower rate. He asked what the formula is for coming up with the credit score or insurance number and whether the division is informed of what the formula is.

MS. WING-HEIER responded that in some cases the division does see where the credit score is, but in most cases, it is part of the insurance company's confidential underwriting as to where it is. The division does see where it is put into the formula for underwriting, the division does see that they use it, and the division does see in some companies the percentage of what it qualifies for, such as whether it is a 10, 20, or 30 percent determination factor depending on the individual company. For example, she continued, Geico doesn't use it at all at this time in Alaska. The division knows that State Farm, Liberty, and Safeco rely heavily on it. So, some companies use it, and some don't, and to say exactly how much they rely on it as opposed to other factors, she would have to pull the individual filings and talk to all the companies that are in Alaska.

[3:34:33 PM](#)

CHAIR KITO stated that there are differences between causation and correlation. He said one of the things used by actuaries is a correlation and correlations can be identified without having causation. Actuaries run numbers on statistics every day to find out what correlates to higher risk or lower risk or higher expense or lower expense and companies have found that credit score is not a causative factor, but a correlative factor, for insurance risk. It might be counterintuitive that using a credit score can lower a person's rates, he continued, but for the vast majority of those who are insured that is the case. He recalled from earlier testimony that the assignment of a poor credit score does not belong to any one class of person - that people with higher incomes can have just as much of a poor credit history as people with lower incomes. That is one of

those other things, he cautioned, where care must be taken in utilizing stereotypical beliefs on some of these actions.

CHAIR KITO opined that in this bill, the department and the governor have a vested interest in trying to provide for an insurance system that works best for the vast majority of Alaskans. California has not used credit scores, he said, but he doesn't know what the impact is on that state's insurance rates. California creates its own weather, he continued, and given its [large] population costs can be amortized over a lot broader expanse than Alaska would be able to do over its population of 700,000. So, while it might not make a difference [in California], he continued, he believes that it can make a difference in Alaska and is therefore good policy.

CHAIR KITO stated he would like to move HB 195 forward, but allowed it sounds like there are going to be issues with trying to get the bill further along in the system. He said he thinks the committee has done what it can with the bill and he doesn't see other things that can be done to alleviate the concerns that have been expressed so far. He offered his belief that the committee is at a policy point where a member either agrees or disagrees with this policy and it is time to move the bill to the next level of scrutiny.

[3:37:46 PM](#)

REPRESENTATIVE BIRCH stated that the bill is good legislation and went through both chambers last year. The governor had some issues with it, he recounted, but after some tweaks the governor brought it back before the legislature. The bill is a good effort to square things up and recognize reality, he continued. While a person doesn't have to give permission to use his or her credit score, credit history is relevant when it comes to insurance or consumer loans. He said he supports the bill.

[3:38:29 PM](#)

REPRESENTATIVE WOOL agreed that California "makes its own weather" in that it is the fifth largest economy in the world. But, he noted, the states of Hawaii, Massachusetts, and Maryland also don't allow the use of credit scores. As far as the vast majority of people getting a benefit from a credit score, he said he thinks that in the act of business if a company instituted a policy that caused it to receive less money he would see the company as not wanting to pursue it and they all would go the way California is going if it saved the majority of

people money. He cited a report from the Federal Reserve Board to the U.S. Congress which states that according to self-reported data on race or ethnicity, the mean TransRisk Score for Asians is 54.8, non-Hispanic whites 54, Hispanics 38.2, and blacks 25.6. While he is not saying it is causation, he continued, there may be a correlation to credit score and race and ethnicity and he doesn't think a bad credit score necessarily makes someone a bad driver. He said he therefore categorically opposes this type of legislation.

[3:40:22 PM](#)

REPRESENTATIVE JOSEPHSON moved to report HB 195 out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE WOOL objected.

[3:40:38 PM](#)

A roll call vote was taken. Representatives Josephson, Birch, Stutes, and Kito voted in favor of it. Representatives Wool and Sullivan-Leonard voted against it. Therefore, HB 195 was reported out of the House Labor and Commerce Standing Committee by a vote of 4-2.

[3:41:06 PM](#)

The committee took an at-ease from 3:41 p.m. to 3:43 p.m.

HB 222-LICENSURE OF MANICURISTS/NAIL TECHS

[3:43:27 PM](#)

CHAIR KITO announced that the second order of business would be HOUSE BILL NO. 222, "An Act relating to the licensure of nail technicians; relating to the practice of manicuring; and providing for an effective date."

[3:43:53 PM](#)

REPRESENTATIVE WOOL moved to adopt the proposed committee substitute (CS) for HB 222, Version 30-LS0803\0, Bruce, 4/17/17, as the working document. There being no objection, Version 0 was before the committee.

[3:44:15 PM](#)

OWEN PHILLIPS, Staff, Representative Matt Claman, Alaska State Legislature, on behalf of Representative Claman, prime sponsor, introduced HB 222. In 2015, he stated, the legislature passed House Bill 131 in hopes of improving the health and safety of nail salon patrons. House Bill 131 outlined new regulations, including 250 hours of education and an examination to become a licensed nail technician. Prior to that bill, a person could receive a manicurist's license by completing 12 hours of training, though many people received many more hours outside of the state of Alaska. In 2015, he explained, the House made an amendment on the floor that brought unintended consequences on existing licensees seeking renewal in 2017. The floor amendment added a grandfather clause, but the clause was unclear. The Board of Barbers and Hairdressers consultant consulted with the Department of Law and interpreted the new statute to have a temporary and confusing grandfather clause. Therefore HB 222 seeks to remedy the onerous renewal process enacted in 2015 while protecting the health and safety of Alaskans.

MR. PHILLIPS outlined what is currently required of experienced manicurists seeking to renew their license: by August 31, 2017, proof of 250 hours of work as a manicurist; by August 31, 2017, take and pass a written or oral examination; after one renewal period, however, an experienced manicurist is nevertheless required to take 250 hours of additional coursework to receive a nail technician license after the two-year grandfather license that does not require any coursework. He said HB 222 would remove the education requirement for people who are already licensed and working under statutes prior to December 31, 2015. He pointed out that requiring 250 hours of coursework, which is six to eight weeks of full-time effort, could mean these experienced working manicurists might not be able to work. Affected individuals include small business owners and single mothers, he continued. Requiring this training for persons who have been successfully practicing for years could have detrimental impacts on their finances and their families.

[3:46:46 PM](#)

MR. PHILLIPS provided a sectional analysis of Version 0. He said Section 1 adds legislative intent to the uncodified law that the Board of Barbers and Hairdressers allow an applicant to use a foreign language translator during an exam. Currently, he noted, the exam is only offered in English, Spanish, Vietnamese, and Korean. Section 2, he explained, clarifies the grandfather clause by stating that the board may not require an applicant

applying for or renewing a license to complete 250 hours of instruction in manicuring if the applicant holds a valid license that was issued on or before December 31, 2015. Section 3, he stated, amends Section 13(a), ch. 27, SLA 2015, allowing manicurists who hold a valid license on January 1, 2016, to continue practicing manicuring until their license normally expires. [Paragraph] (1) provides that manicurists can renew their license before August 31, 2017, if they meet pre-existing requirements under AS 08.13 as it existed prior to January 2016. [Paragraph] (2) states that manicurists may renew their license for an additional period before August 31, 2019, if they submit proof of 250 hours of satisfactory work experience and have taken and passed the written or oral exam under AS 08.13.090. Section 4, he said, retroactively amends Section 13(a), ch. 27, SLA 2015, as amended by Section 3 of this Act. Section 5, he continued, sets an immediate effective date for this bill.

MR. PHILLIPS added that the intention of HB 222 is to remove the unnecessary burden of education and training hours for experienced manicurists who practiced prior to December 31, 2015, and to extend equal opportunities to individuals who may have a difficulty with a language barrier.

[3:49:17 PM](#)

CHAIR KITO opened public testimony on HB 222.

[3:49:33 PM](#)

JEANNINE JABAAY testified in support of HB 222. She related that she was a former public member of the Board of Barbers and Hairdressers and an advocate of House Bill 131 in 2015. As outlined by Mr. Phillips, she stated, it was [the board's] understanding that for Alaska's nearly 1,000 current licensees, those 250 hours required for new licensees would be grandfathered hour for hour for the hours they worked on the job and incurred incumbently. However, the [floor] amendment changed that accidentally, she continued, and [the board] would like to see that fixed, which HB 222 would do.

MS. JABAAY recalled that regarding the testing requirement, [the board] was asked directly by a legislator whether it came in the Hmong language. She said she doesn't remember the exact answer given by the decision, but it was her understanding that it came in nine languages and now it is down to only four. The State of Alaska uses the National-Interstate Council of State Boards of Cosmetology, Inc. (NIC) test, she continued, which is a

proprietary test that cannot be translated or interpreted according to the NIC regulations. A person who doesn't speak one of the four languages outlined by Mr. Phillips will be unable to understand the questions being asked. There is a large population of licensees in Alaska's nail technician industry who don't speak any of those four languages. She said HB 222 would correct that by allowing the test to be translated or interpreted and would give the board that discretion. This bill does a good job addressing those things that are confusing, she added, and would bring House Bill 131 back to its original intention of increasing public safety without removing the livelihood of the current 1,000 licensees.

[3:51:36 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked whether Ms. Jabaay said she currently serves on the Board of Barbers and Hairdressers.

MS. JABAAY replied she served for four years and her term ended March 31, so she is no longer on the board. She said she was part of House Bill 131 two years ago and has been approaching legislators since January while she was still on the board.

REPRESENTATIVE SULLIVAN-LEONARD inquired whether it seemed at that time that 250 hours of instruction was important to teach the safety of instruments being sterilized and the safety with patients or whether it seemed that maybe it could have been a smaller field of time utilized for teaching manicurists.

MS. JABAAY responded that the board spent quite a bit of time debating the number of hours. Alaska had the lowest number of hours and only had 12 hours of sanitation, she said, so not even two days of bookwork and no testing. But the industry has changed, she continued. She stated that the 12 hours was back from the 1970s. She added, "But now they're using drills; they're using files, cheese graters; they have ... transference of [acquired immune deficiency syndrome] (AIDS) and [Methicillin-resistant Staphylococcus aureus] (MRSA)." [The board] looked at the standards in all the states across the U.S. and found that 250 hours brought reciprocity for the licensees - they could take their livelihood from one state to another without being overly burdened. She noted that Alaska is still in the bottom one-third of those hours, meaning that another two-thirds of the states require more hours than does Alaska even after passage of 250 hours. The board felt it was a good number going from 12 hours to 250 and the legislature at the time agreed.

REPRESENTATIVE SULLIVAN-LEONARD, regarding language, said she wants to know that a manicurist understands what she is asking and vice versa. She asked whether that came up in the discussions when the board was looking at the different languages that it wanted to assist in accommodating.

MS. JABAAY answered that the board did not, and does not, try to regulate people being necessarily good at their practice. The board wants to ensure that [manicurists] are safe, she said. When a customer specifically requests a rounded nail versus a square nail, that's between the customer and the practitioner and the board thinks that will get regulated just by commerce and economy. The board's responsibility is to ensure that those who are licensed by the state and governed by the board to practice can do so safely. [The board] felt that 12 hours did not accrue that safety, but 250 hours did, she continued. So, if [a manicurist] uses an electric drill and brings it down to the meat the customer will know he or she is protected as an individual because [the manicurist] will know how to respond to that, but if a customer doesn't like the paint polish that [the manicurist] did, that would be between the customer and [the manicurist] to determine. The board doesn't try to govern someone being good at their field, just safe at their field.

[3:55:09 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD said that was not what she was trying to get at; rather, she was trying to clarify the issue of communication. She asked, "So, if you're seeking communication with regard to the testing aspect of being a manicurist, and you need someone there to help make sure they understand the testing based on different languages, then how ... does that pertain to the business?" She added, "If English is not a second language for them, is there difficulty then in the workplace?"

MS. JABAAY replied there probably is going to be some difficulty if English isn't [a manicurist's] primary or secondary language. The testing would be confusing and so could be the job. She said she imagines that commerce would regulate some of that - [customers] who feel they don't have good ability to communicate with their practitioners probably won't go back. But, she added, the board would hope to govern the safety. If the question is whether [applicants] who don't speak English as their primary or secondary language should be allowed to have their tests translator interpreted, she said she personally

believes they should, and HB 222 would allow that accommodation so that [these applicants] are able to work in Alaska.

[3:56:52 PM](#)

RACHEL LAUESEN, Attorney, Fortier & Mikko, P.C. Anchorage, Alaska, testified in support of HB 222. She said she wrote an extensive letter to various representatives, has also contacted some senators, and has provided supporting documents relating to the flaws of House Bill 131. She stated that Ms. Jabaay did an excellent job explaining the history and intent of the legislature behind passing House Bill 131 as well as the intent of the board, but she thinks it was misunderstood. She said her testimony today is in support of HB 222.

MS. LAUESEN noted that she represents a licensed manicurist who wishes to remain anonymous because she has some concerns about retaliation. She added that she has spent quite a bit of time delving into House Bill 131 and the legislative history behind it, as well as the history of the meetings with the board reflecting the board's intent. She stressed the importance of passing HB 222 because of the inherent flaws with the existing bill and the threat it serves to this group of existing professionals. There is simply not enough time by August 31, 2017, she explained, for these individuals to pass the test, particularly where many of them are unable to take it in their native language; the only language that is offered for the oral test is English.

MS. LAUESEN stated it is important to clarify that there is nothing in the legislation that has passed that says individuals with 250 hours of documented work experience but can't pass the test are then eligible for a nail technician license, but they are not required to attend 250 hours of school afterwards. However, she said, that is how the Division of Corporations, Business and Professional Licensing has interpreted it, and it's an erroneous interpretation. All the existing legislation says, she continued, is that to sit for the exam, an applicant for a nail technician license must have satisfactorily completed 250 hours of schooling from a licensed manicurist school. The legislature already previously determined that 250 hours of work experience would qualify somebody to sit for the exam, but somehow the Division of Corporations, Business and Professional Licensing has determined that to receive the nail technician license even with 250 hours of documented work experience and with passing the exam, [the applicant] still needs to afterwards complete 250 hours of schooling, which can cost upwards of

\$4,000. It is an additional step that was not required previously of the holders of the advanced manicurist license, she pointed out. She recommended that HB 222 be adopted to fix the many problems with [House Bill 131].

[4:00:57 PM](#)

BEVERLY HARPE testified in support of HB 222. She related that she has a close family member who has been working as a manicurist for the last five years. This family member would have had the total hours license prior to the 2015 deadline and was notified then that she needed to pass a written exam and then obtain education. English is not this family member's first language, and it was confusing to the family member, as well as to herself, as to why examination would be before education since it is typically the other way around.

MS. HARPE stated she did research and worked with Representative Claman, and that she and many others noticed that the statute and regulations simply did not match up. She said the family member did take and pass the exam, but it was a terrible financial burden to take off 250 hours of work for the in-classroom education because in-classroom is how it is offered in Anchorage. The cost is \$3,500, she noted, and the person must attend in-classroom during the day every day, five days a week, until reaching 250 hours. It is very burdensome, she added, to expect someone who has met all the requirements, proved to be proficient and competent by the testing, and passed all the safety portions to then pay \$3,500 for education for which they've already proven they have the information and to forego all income for one and a half months. Ms. Harpe expressed her support for HB 222.

[4:03:36 PM](#)

KEVIN MCKINLEY, Chair, Board of Barbers and Hairdressers, testified in support of HB 222. He said the previous witnesses did a good job explaining HB 222 and as chair of the board he is stating support for the bill.

[4:04:21 PM](#)

CHAIR KITO closed public testimony on HB 222 after ascertaining no one else wished to testify.

CHAIR KITO held over HB 222.

SB 93-CREDIT REPORT SECURITY FREEZE

[4:04:32 PM](#)

CHAIR KITO announced that the third order of business would be SENATE BILL NO. 93, "An Act relating to security freezes on the credit reports or records of incapacitated persons and certain minors."

[4:04:47 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, on behalf of Senator Coghill, prime sponsor, introduced SB 93. She said the bill looks familiar because last year [Twenty-Ninth Alaska State Legislature] the House addressed Senate Bill 121, which created a security freeze on minors and incapacitated consumers, or protected consumers, which are consumers who may be over age 16 or 18 but unable to take care of themselves. She stated that SB 93 takes up where Senate Bill 121 left off. In the last hours of last year's session, Representative Claman tried to add this language to Senate Bill 121, but it was just too late in the process to happen.

MS. MOSS stated that SB 93 would set up a system to freeze a minor's or incapacitated person's credit report. This is important, she pointed out, because it is never considered that children could be victims of identity theft and that is what this bill is about. About 1.3 million kids in the U.S. are victims of identity theft annually and approximately 50 percent of them are children six years old or younger. This addresses a system to set this up because it is much different than freezing an adult's credit report. An adult already has a credit report and a credit history. A minor or incapacitated person usually doesn't, so there is nothing to freeze.

MS. MOSS explained that to freeze a minor's or incapacitated person's credit report - which doesn't exist - a parent, guardian, or legal representative must go to a credit reporting agency and request that freeze. If there isn't a record or a report, the credit-reporting agency will create what is called a credit record and to do that the credit-reporting agency will have to make verification on many pieces of information. When an adult goes into a credit-reporting agency this happens almost instantaneously, she noted, because an adult has a credit report. However, she continued, when dealing with a minor or someone who doesn't have a credit report, the credit report must be established. This is done by the parent or [personal]

representative asking that the credit report be secured, reporting certain information, and proving that they have the authority to make that request, which could be a court order for a personal representative or a birth certificate and identification (ID) for both the minor and the parent. The consumer agency then creates a credit record for a fee of \$5.00. This fee is under statute and is the same fee that is paid by an adult to get a credit report frozen. The placement of the freeze could take up to a month for a child or incapacitated person because of that verification and checking of the records.

MS. MOSS pointed out that the length of the security report would last for as long as the parent or personal representative requests. It could be lifted at any time and to lift it the parent or representative would have to verify who they say they are and that they have the legal authority to do so. She said the exception to that would be when a minor turns 16 years of age and has a job, a car, or a cell phone, and has basically created a credit report, at which point the minor can lift the freeze, if desired. Another exception, she stated, is if an incapacitated person becomes self-sufficient and can prove with a court record that they are no longer incapacitated and then the freeze could be lifted. Another exception to lifting that freeze, she noted, would be if the information that was given to the credit reporting agency was misrepresented, which would allow the credit reporting agency to lift the freeze itself. Lifting the freeze would cost \$5.00, she continued, except there would be no fee in the case of identity theft for which a police report or court document can be produced.

MS. MOSS added that there are a few exceptions in the bill. There are people who collect data secondhand; they don't create that data. That would be, say, a government agency that is collecting back taxes or child support or a department of revenue, and they would not be required to freeze credit reports because they do not create credit reports, they collect credit reports.

[4:10:41 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD asked what prompted the bill; for example, whether something happened when someone turned 18 and tried getting credit cards but couldn't because their Social Security number had been compromised.

MS. MOSS replied that the credit reporting agencies have requested this. She said 27 states other than Alaska have

adopted these statutes because identity theft in children is a growing concern. Children are easy targets and it is a very easy way for people who create false credit, collect credit cards under false credit, or file false tax returns with the Internal Revenue Service using minors' Social Security numbers.

[4:11:53 PM](#)

REPRESENTATIVE BIRCH stated he likes this idea. He inquired whether Social Security numbers are nowadays assigned at birth.

MS. MOSS responded that there are exceptions; for example, her children didn't get their Social Security numbers until they were 13 years old. However, she continued, she thinks most people do get a Social Security number at birth.

CHAIR KITO opened invited testimony.

[4:13:12 PM](#)

CARLIE CHRISTENSEN, Director of Government Relations, Equifax Inc., testified that Equifax supports SB 93. She said SB 93 would specify the manner in which a protected consumer's representative must submit a request to a credit reporting agency, including sufficient proof of identification and authority to act on behalf of the protected consumer. By incorporating these specific requirements into the existing Alaska credit report security screen statute, affected consumers will be more protected from the risk of their freeze being either unduly placed on their credit file or unduly removed by someone who isn't authorized to act on behalf of that individual. This would bring Alaska law more in line with the other states that have minor freeze statutes specifying how to handle these requests and to do it consistently, she added.

[4:14:34 PM](#)

REPRESENTATIVE BIRCH offered his recognition that Equifax is a private entity and asked whether Equifax or others in the same business of credit scoring keep digital copies of things such as proof of identification authority, Social Security, and birth certificates. He further asked whether Equifax has a copy of his birth certificate.

MS. CHRISTENSEN answered that if it is something for placing a security freeze on behalf of a minor, Equifax may have to retain that. But, she added, she doesn't know the exact specifics of

Equifax retaining that information or if it something that is just presented to Equifax. She said she would have to get back to the committee with the specifics.

[4:16:20 PM](#)

SARAH LASHFORD, Manager of Government Relations, Consumer Data Industry Association (CDIA), testified in support of SB 93. She said CDIA is an international trade association founded in 1906 with more than 130 corporate members. Its mission is to enable consumers, media, legislators, and regulators to understand the benefits of responsible use of consumer data, which creates opportunities for consumers and the economy. She explained that the members of CDIA provide businesses with the data and the analytical tools necessary to manage risk and that CDIA members help ensure fair and safe transactions for consumers to facilitate competition and expand consumer's access to the market, which is innovative and focused on their needs. She stated that the products of CDIA members are used in more than 9 billion transactions each year.

MS. LASHFORD said SB 93 would provide additional protection for identity theft. She recounted that in 2016 the Alaska State Legislature passed Senate Bill 121 to offer a credit freeze for the consumer records of minors. Providing protection for those exposed to the dangers of identity theft was a step in the right direction. However, she advised, by placing the authorization in the same section of statute as that for adults, the statute lacks additional protection that 27 other states have now adopted. These additional measures help to safeguard against fraud and identity theft as well as ensure consistency. She said SB 93 provides clear guidance and standards for handling minors' credit. She offered CDIA's belief that SB 93 maintains the original intent of the 2016 legislation while adding uniformity and consistency with other states' laws. She urged committee members to support SB 93 to provide the same level of protection as the other 27 states that have adopted a freeze for minors and incapacitated adults.

[4:18:35 PM](#)

REPRESENTATIVE BIRCH stated that SB 93 appears to be a good measure and offered his appreciation for learning more about how to protect children with this opportunity.

[4:19:07 PM](#)

CHAIR KITO kept public testimony open after ascertaining that no one else wished to testify on the bill at this time.

CHAIR KITO held over SB 93.

REPRESENTATIVE BIRCH asked why the chair is holding the bill.

CHAIR KITO replied that he typically likes to have two meetings for each bill that is before the committee so there is an opportunity to address any questions that are not fully answered and to give an opportunity for amendments to come forward.

SB 64-UNIFORM ENVIRONMENTAL COVENANTS ACT

[4:19:56 PM](#)

CHAIR KITO announced that the final order of business would be SENATE BILL NO. 64, "An Act adopting the Uniform Environmental Covenants Act; relating to environmental real property covenants and notices of activity and use limitation at contaminated sites to ensure the protection of human health, safety, and welfare, and the environment; and providing for an effective date."

[4:20:11 PM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, as prime sponsor introduced SB 64. He said the goal of the bill is to return unused brownfields to the stream of commerce. In 2003 the Uniform Law Commission created a Uniform Environmental Covenants Act. The bill, he explained, would allow "a challenged piece of property that is contaminated to transfer the liability for that contamination to the next owner." It protects the buyer and the seller of the contaminated property while allowing the fullest and best use until the contamination reaches safe levels. The bill creates a legal mechanism to safely transfer contaminated property through an environmental covenant. The covenant has no financial interest; it is just a recordable interest on the property that travels with the property until the contamination no longer exists.

SENATOR MICCICHE, to provide an understanding of the value of the bill's provisions, related the story of a contaminated property in his community. He said this multi-acre property on the river had at one point a dry-cleaning facility. The "mom and pop" property owners cannot afford the cleanup, but there are interested developers that want that property and can afford the cleanup. This allows the contamination to be recorded on

the deed, the new owners can come in and clean up the property, the contamination can be erased from the deed, and the new owners can go about their business. It provides transparency throughout the life of the property, he pointed out, and provides assurances to buyers and sellers that the risks will be managed. It is voluntary. Other states, he added, have found that the covenants help communities transform blighted property into marketable assets.

SENATOR MICCICHE stated that there is support for SB 64 except from the federal government. About 51 percent of the currently contaminated properties are on federal lands, he noted, and a letter is expected from the federal government stating that it doesn't support the bill. However, he continued, [the bill's sponsors] feel that the federal government should meet the same requirements as Alaskans in the cleaning up of contaminated property. Alaska presently has 2,258 active contaminated sites and 1,048 of them are federally owned. Based on current trends, he said, the Department of Environmental Conservation (DEC) projects that about 835 of the current sites would be impacted and likely to have the benefit of environmental covenant if the bill is passed.

[4:23:34 PM](#)

REPRESENTATIVE JOSEPHSON surmised that the previous owner would be essentially immunized from any litigation. He questioned whether this could be done given the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

SENATOR MICCICHE replied that his understanding is that there can be an agreement between [the seller] and the buyer for a negotiated proportion of responsibility. He added, "I'm not saying it has to transfer; I'm saying what has to happen in this voluntary program is that it is recorded on the deed." How the seller and buyer decide to negotiate the proportion of responsibility is a secondary process that can certainly occur. He said he thinks in the vast majority of the cases it is going to be someone wanting [to buy] that filling station on the corner and is willing to take on the responsibility of that contamination and cleanup.

REPRESENTATIVE JOSEPHSON referenced the situation of the sulfa line leak with nine square miles of contamination in which [Williams Alaska Petroleum, Inc. ("Williams")] is one of two likely responsible parties. He inquired whether SB 64 would

allow Williams to push off its liability to someone willing to accept it.

SENATOR MICCICHE deferred to Ms. Kristin Ryan of DEC for an answer. However, he continued, he doesn't believe that would be the case.

4:25:58 PM

KRISTIN RYAN, Director, Division of Spill Prevention & Response, Department of Environmental Conservation (DEC), on behalf of DEC testified in support of SB 64. She said the department thinks this is something that would help Alaska and help Alaska transfer land that has been contaminated back into commerce. Rather than the land being considered blighted and unusable, SB 64 would allow [DEC] to say the land is completely usable except for certain purposes such as a daycare, well, or whatever the restriction needs to be. The bill provides a process for amending a covenant in the future, she noted, so when it gets to a point where the contamination is no longer a problem the current holder of the property can ask DEC to remove the covenant. If the department agrees, it would remove the covenant. If the department doesn't agree, there would be an administrative appeal process for the property holder to appeal DEC's decision. There is no fiscal note, she noted, because the department is already performing this work.

MS. RYAN explained that DEC puts restrictions on property all the time, but that it is not necessarily communicated to buyers. The department maintains a database that can be found in its office and on its website. The public can look on the website. Some realtors do, and some title companies do, but not everybody. This bill would just ensure that that's communicated on the title, so the title search company would be guaranteed to find that information when it does a title search. There is no fiscal impact to DEC, she added, it is just a transparency and a communication about restrictions that DEC is placing on a property.

MS. RYAN addressed Representative Josephson's question regarding liability, stating that Alaska's statutes mimic CERCLA. Alaska has CERCLA-like statutes and, yes, the current owner is the responsible party that DEC would first approach like it did in the Flint Hills situation [with Williams]. She explained that DEC was working with Flint Hills and the Koch brothers because they owned the property and DEC settled with them. But, she continued, DEC is pursuing litigation against Williams as the

other responsible party to contribute to that remedy. So, she advised, the state would still have the capacity to pursue all responsible parties for a release as this bill does not have any impact on Alaska's liability statutes.

REPRESENTATIVE JOSEPHSON requested further confirmation on Ms. Ryan's statement that SB 64 would have absolutely no impact on Alaska's liability statutes.

MS. RYAN responded correct.

[4:28:14 PM](#)

REPRESENTATIVE BIRCH said SB 64 is heading in the right direction and is good legislation. He noted that a home seller must provide a disclosure document regarding any problems with the home. He asked whether disclosure for a home with some sort of an environmental concern would tie in with the title rather than the real estate disclosure. He further asked whether there is any overlap of those two things.

MS. RYAN answered that Alaska has a disclosure law that requires disclosure of contamination on a property when it is being sold, but DEC has found that that doesn't always happen. The property may have been contaminated several owners back and it gets lost in the shuffle and it isn't communicated as people move forward. She related a situation with a gas station in Anchorage where the tanks were pulled. Fuel that was left in the dirt around the tanks spread and went around the foundation of the building. Because the only way to remove the fuel around the foundation would be to remove the foundation, DEC agreed to leaving it until the foundation could be removed as the property was transferred from person to person. However, she continued, that restriction was not communicated, and the current owner pulled that building out and spread the dirt everywhere. Had he known he would have managed the dirt appropriately when he removed the foundation. Now there is contamination on his neighbor's property that would have been avoided had he understood that restriction was in place. The restriction was in DEC's database, but he didn't know it was there.

[4:30:14 PM](#)

REPRESENTATIVE STUTES noted that regarding contaminated properties, the federal government is one of the worst offenders, and one of the worst contaminated areas in the country is on the U.S. Coast Guard base at Kodiak. She offered

her understanding that SB 64 would have no effect in requiring any kind of cleanup; it would only apply if the federal government chose to transfer that property to another owner.

MS. RYAN replied that DEC's first goal is cleanup; the department wants people to clean up things to DEC's cleanup levels. She said the Environmental Protection Agency (EPA) is also involved because of the way that site is regulated. Sometimes there are legitimate reasons for leaving contamination in place, she pointed out, such as the previously mentioned gas station. This would only come into play when contamination is left above a cleanup level and that is a decision that the responsible party and DEC would make together. If it were decided to leave the contamination, then the responsible party would need to do a covenant. The party always has the option to clean it all the way up and then this becomes a moot point.

SENATOR MICCICHE added that just because a site is contaminated doesn't mean it can't be used for other things. The covenant would be specific to the risks at a particular site and would restrict certain activities. For example, an ex-filling station may be a great site for an auto parts store but may not be a great site for a daycare center. The transfer can still take place even though it remains contaminated and remains in commerce, he said. If at some point it is decided to use it for one of the restricted activities, then the responsible party would have to clean it up to that level.

[4:32:36 PM](#)

REPRESENTATIVE WOOL stated he supports the legislation and that it looks like it is solving a problem. He asked what the situation is regarding the dry-cleaning property in Soldotna that was mentioned by the sponsor and whether the property can be sold under current law.

SENATOR MICCICHE deferred to Ms. Ryan for an answer and requested that Representative Wool pose a hypothetical scenario.

REPRESENTATIVE WOOL posed a hypothetical scenario in which a property is contaminated and asked what must happen under current law if someone wants to purchase the property.

MS. RYAN responded that under current law if someone knows the property is contaminated and wants to purchase it, there is something that is called prospective purchaser agreement, which is an arrangement made between the seller and the buyer where

they negotiate those risks and agree on who is responsible for what. It provides some protection for liability and is an upfront negotiation between a buyer and a seller.

SENATOR MICCICHE noted that the aforementioned doesn't allow for that to be placed on a deed and recorded. So, if it changes hands in the future, then an unwary buyer may not be aware of the previous contamination and could be buying into a nightmare that may be well above the costs that the buyer can afford to develop the property. The bill would just clean it all up, he said, and protect the seller so that the seller can transfer a property with the knowledge of contamination by both the seller and buyer on that piece of property. The bill would also protect the buyer in having full knowledge of what is on that piece of property. It would remain on the deed until that contamination no longer exists.

[4:34:49 PM](#)

REPRESENTATIVE JOSEPHSON referenced the negotiations mentioned by Ms. Ryan and said his main concern with SB 64 is whether someone could shift liability.

MS. RYAN offered her understanding that SB 64 would not change Alaska's liability statutes in any way. An example would be the gas station in Anchorage that she discussed. The person the department is asking to clean it up is the person who moved the dirt around, but that person has the capacity to go after the original person who caused the contamination and DEC would still have the statutory authority to go after the original person. She deferred to DEC's attorney with the Department of Law to provide an answer in legal terms.

JENNIFER CURRIE, Senior Assistant Attorney General, Environmental Section, Civil Division (Anchorage), Department of Law (DOL), in response to Representative Josephson's question explained that private parties to a sale of either a residence or industrial piece of property could negotiate on their own to shift liability. But, she continued, those private contracts are not valid when looking at Alaska's liability statutes for Alaska's mini-CERCLA statute that is just like CERCLA. So, it would not affect the liability for which the state could pursue the buyer and the seller.

REPRESENTATIVE JOSEPHSON assumed that the disclosure would have to be comprehensive and complete so that the purchaser would be fully informed of a toxic leak or other form of contamination.

MS. CURRIE replied yes. The goal of the covenant, she said, is to have details about the past contamination that is located at the site, whatever cleanup took place, and the current restrictions that are placed on the property, and those are intended to be comprehensive.

[4:37:27 PM](#)

REPRESENTATIVE JOSEPHSON recalled two notorious leaks in Alaska. One was some sort of gas leak along the rail corridor at Crown Point near Moose Pass and one was a railroad leak in Gold Creek near Curry in the Talkeetna area. He asked whether situations like those are lost to history or whether DEC flags and monitors them as areas of concern such that they are not just footnoted.

MS. RYAN answered that before the time of the railroad situation in Talkeetna, DEC did not have contingency plans for the railroad. A big change resulting from that was that DEC added the railroad as now an organization that is required to have contingency plans when hauling fuel, meaning the railroad must have the capacity to clean up an accident like that. Learning from larger spills usually results in changes to Alaska's statutes. Additionally, all contaminated sites, even if they are cleaned up, remain in DEC's database and are accessible by anybody as closed. So, she said, that information is out there and is often utilized by individuals doing research.

[4:39:16 PM](#)

SENATOR MICCICHE noted that the shift of liability does not formally occur. Through capture in a deed, SB 64 allows the voluntary acceptance of the cost of the cleanup by the person purchasing the property. That is probably less likely with commercial and industrial spills, he said, and he is thinking more of a "mom and pop" where a \$40,000-\$100,000 cleanup may be well outside of their budget, but someone who really wants to develop a piece of property may be more than willing and able to afford that cost of cleanup. So, he continued, he sees some real benefits and can think of many pieces of property. There is likely property in each district in the state where SB 64 would help bring that property back into productive condition.

[4:40:19 PM](#)

CHAIR KITO held over SB 64.

4:40:26 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:40 p.m.