

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

May 8, 2017

3:18 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

Representative Adam Wool, Vice Chair
Representative Louise Stutes
Representative Mike Chenault (alternate)
Representative Bryce Edgmon (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 180

"An Act relating to money transmission and currency exchange businesses; relating to transmitting value that substitutes for money; relating to licensing requirements and registration through the Nationwide Multistate Licensing System and Registry; relating to surety bonding requirements; authorizing certain licensees to contract to use subdelegates for reloading funds on certain stored-value cards; relating to record retention, reporting requirements, and enforcement provisions; relating to exemptions; relating to money services Internet activities; relating to transmitting value and currency; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 180

SHORT TITLE: MONEY SERVICES BUSINESS: REQS; LICENSING;

SPONSOR(S): REPRESENTATIVE(S) FANSLER

03/14/17	(H)	READ THE FIRST TIME - REFERRALS
03/14/17	(H)	L&C, JUD
05/08/17	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

MARY SCHLOSSER, Staff
Representative Zach Fansler
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 180 on behalf of Representative Fansler, prime sponsor.

PATRICE WALSH, Examinations Chief
Division of Banking and Securities
Department of Commerce, Community & Economic Development
(DCC&ED)

Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 180.

ACTION NARRATIVE

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CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:18 p.m. Representatives Knopp, Birch, Kito, and Josephson were present at the call to order. Representative Sullivan-Leonard arrived as the meeting was in progress.

HB 180-MONEY SERVICES BUSINESS: REQS; LICENSING;

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CHAIR KITO announced that the only order of business would be HOUSE BILL NO. 180, "An Act relating to money transmission and currency exchange businesses; relating to transmitting value that substitutes for money; relating to licensing requirements and registration through the Nationwide Multistate Licensing System and Registry; relating to surety bonding requirements; authorizing certain licensees to contract to use subdelegates for reloading funds on certain stored-value cards; relating to record retention, reporting requirements, and enforcement provisions; relating to exemptions; relating to money services Internet activities; relating to transmitting value and currency; and providing for an effective date."

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MARY SCHLOSSER, Staff, Representative Zach Fansler, Alaska State Legislature, presented HB 180 on behalf of Representative Fansler, prime sponsor. With the aid of a PowerPoint presentation [hardcopy included in the committee packet], she said HB 180 would amend the Alaska Money Services Act, which provides legal framework for currency exchange and money transmission functions, including transfer of money, and loading and reloading of payment instruments - including store value cards. She explained that when the Act was passed in 2007, the legislature did not contemplate virtual or "crypto" currency, such as "Bitcoin" or "Venmo," or the rate of money services business expansion.

MS. SCHLOSSER stated that HB 180 would update licensing, recordkeeping, and enforcement provisions designed to support a "legal marketplace" and ensure legal behavior. She said the proposed changes better support rural Alaska-based money service businesses by removing the licensing discount for Outside firms; current law allows applicants from other states to submit minimal information and pay a fee of \$500, which is half of the fee that instate money service businesses pay.

MS. SCHLOSSER relayed that HB 180 would encourage business expansion, replacing a \$25,000 net-worth requirement with a surety bond for the same amount "up to \$1 million." The surety bond coverage would add greater consumer protection, she said. The proposed bill would also assist rural Alaskans by simplifying the process for a license to contract with other licensees to reload rural-issued prepaid cards. She drew attention to the penultimate slide of the PowerPoint, which shows the current treatment of subdelegates and how contracts must be made individually with entities, such as Fred Meyer, Walgreens, and Safeway. The last slide shows the proposed treatment of subdelegates, which would be streamlined. She indicated this would provide "a greater access for rural Alaskans coming into Anchorage, in particular."

MS. SCHLOSSER said HB 180 would broaden the definition of money services to include the new virtual currency transactions, as well as "other methods of moving or transferring money." This will better protect Alaskans against fraud, she said. Further, the bill would add a criminal background check for all control persons; require licensees to comply with federal laws, including those related to suspicious activity reports; increase records retention from three to five years for greater transparency; update enforcement provisions by allowing increased orders; require report sales for calculations of

license fees and assessments to ensure state costs are covered; and require registration in the Nationwide Multistate Licensing System and Registry (NMLS) for filing documents and paying fees - a system used by over 90 percent of money service businesses in other states.

MS. SCHLOSSER reported that Alaska currently has 87 registered money service businesses, and the number is expected to increase over the next few years. She said 3 of the 87 are Alaska-grown companies. Ms. Schlosser concluded her presentation by offering to answer questions.

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REPRESENTATIVE BIRCH asked for clarification as to what problem HB 180 is attempting to solve.

MS. SCHLOSSER responded that HB 180 is "kind of a clean-up bill." She said it would increase consumer protection, both with the surety bond and with regulations that increase transparency. She said by using a system that 90 percent of the businesses in other states currently use, Alaska businesses would be able to "get their information more readily." She reiterated that the bill would expand the definition of money services to include virtual money transfer businesses.

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REPRESENTATIVE KNOPP asked who contracts with multistate agencies and whether there is any cost to the state.

MS. SCHLOSSER answered that money service businesses contract with each other. She offered a hypothetical example such that a contract made under the provisions of the proposed bill would be valid with subdelegates. People with reloadable [stored-value] cards would have greater access to goods and services. She said, "It's not setting up an entire banking service, but it's getting them a little bit closer, since there's not a lot of banks set up in rural Alaska."

REPRESENTATIVE KNOPP offered his understanding that currently "the cards are not used in the national company." He said he tries to be cautious about "forcing money service businesses to contract with a nationwide company in order to do business in our state." He said it appears that the current situation is working wherein businesses contract individually with the stores, and under HB 180, they would have to go through a

national firm. He asked if [HB 180] is being requested to facilitate the monitoring of consumer protection or for the benefit of the nationwide company. He asked, "Who's pushing the agenda?"

MS. SCHLOSSER offered her understanding that [HB 180] is "driven by Alaska business folks," as well as by "an outdated regulatory system around money services." She reiterated the streamlined process [previously described in the last slide of the PowerPoint].

REPRESENTATIVE KNOPP surmised that the committee would have the opportunity to hear from some businesses.

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REPRESENTATIVE BIRCH asked for clarification about the current manner by which a cash card can be used.

MS. SCHLOSSER answered that currently the business owner [who sells the card] can contract with whomever he/she desires; it is beneficial to have as many contracts as possible. Under HB 180, the process of contracting would be streamlined using national organizations, making it no longer necessary to contract through individual stores; the card would be useable at any business that uses the national business.

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REPRESENTATIVE BIRCH offered his understanding that a significant percentage of cash cards do not get used at 100 percent. He asked who ends up receiving the unused balance.

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MS. SCHLOSSER offered her understanding that it is the business owner that originally issued the card.

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PATRICE WALSH, Examinations Chief, Division of Banking and Securities, Department of Commerce, Community & Economic Development (DCC&ED), stated that prepaid cards are a little different from gift cards. She explained that while gift cards are issued for use at specific stores, prepaid cards are good for any point of sale (POS), "so, the money stays on that card." She continued, "The business owner is responsible for making

sure that money stays on the card. So, there's never any expiration; there's never any balance that doesn't get used; it's always available." She emphasized that prepaid cards are different from a gift card, "which does have those fees."

REPRESENTATIVE BIRCH asked how [a prepaid card] compares to a credit card.

MS. WALSH clarified that [prepaid cards] are not like credit cards. She explained that a prepaid card is loaded with a certain amount of money, and the person who owns the prepaid card "would have that amount available at these point of sales" - but no more than that amount.

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REPRESENTATIVE KNOPP mentioned currency exchange sites, which he said he has observed when traveling outside the country. He asked what would be regulated under HB 180.

MS. WALSH answered that HB 180 includes currency exchange, "but not at the same level as the money transmission." Currency exchange swaps one country's currency for another. She said the department does license currency exchangers that are not affiliated with a bank, but there are very few licensed in Alaska. She said, "Our main volume of our licensees are the traditional money transmitters." She stated that [businesses] that want to transfer money from one person to another, outside of a bank, must hold a money transmitter license. She said the industry has changed a lot; it now offers services beyond the traditional money transfer, including prepaid cards, virtual currency, and cards used to make payroll. She expressed that the proposed legislation is "trying to keep up with the changes in the industry and the technology that's available."

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REPRESENTATIVE SULLIVAN-LEONARD noted that the sponsor statement [included in the committee packet] states that the NMLS "allows states to share information about licensed money services businesses activity." She asked, "Who would be sharing that information, and where would it go?"

MS. WALSH answered that NMLS is a licensing tool to which state regulators from all 50 states have access. She explained that a company that wants to be licensed would send an application electronically to NMLS; the division, as regulator for Alaska,

would get the notice and communicate through NMLS. The system allows other regulators to see if the applicant is licensed in other states or if there have been any ramifications to the applicant's license that could indicate regulatory issues related to consumer protection.

REPRESENTATIVE SULLIVAN-LEONARD noted that Sections 41-44, of HB 180, address penalties that may be incurred for those subdelegates that may not be in compliance. She asked Ms. Walsh to expound on that issue.

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MS. WALSH replied that those sections were added to include the subdelegate language, so [subdelegates out of compliance] would be liable if there are any problems with the money that they have collected from a consumer "not getting to where it's supposed to go."

REPRESENTATIVE SULLIVAN-LEONARD asked for an example of why and how a penalty would be applied.

MS. WALSH responded, "We are not anticipating problems with that, but it does help to protect the consumers." She offered a hypothetical situation, as follows:

Let's say a person goes up and wants \$100 put onto their prepaid card - and this is a subdelegate - and they go to use the card and the money's not on the card. And so, they need to find out why that money's not accessible. So, this helps to make that subdelegate accountable, and then they would be able to go and contact who they purchased their card from and try to find out where that money is.

REPRESENTATIVE SULLIVAN-LEONARD said, "Pretty simple."

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CHAIR KITO asked whether the state of Alaska has any law restricting or capping the fee that can be charged on [prepaid] cards.

MS. WALSH answered that those fees are all regulated by federal law; there is nothing in state law that would counteract what that federal law has in place. In response to a follow-up question, she noted that the division had provided some

information to Representative Fansler's office regarding "card fees at the federal level." She said there are separate rules for gift cards and prepaid cards, and she said she does not have that information at her fingertips.

CHAIR KITO indicated he may ask the bill sponsor for that information.

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MS. SCHLOSSER relayed that there is a plethora of complex information "out there." She said the fees currently don't have much federal regulation. She indicated that the regulation that does exist is broad, and there have been efforts made to tighten the regulations; however, last month, when those changes were slated to commence, the federal Consumer Financial Protection Bureau decided to postpone the new rules for prepaid cards for six months - to start April 1, 2018. She said, "It seems like ... [the] money services business is able to write ... [its] own rules, as far as fees go." She said consumers pay a [considerable amount] of hidden fees. She stated, "The proposed regulation change would make it more transparent by putting them there on the web site, having a grace period, and not targeting low-income consumers - that kind of thing - but that's been put on hold, ... according to the administration, to give those money services more time to comply."

CHAIR KITO encouraged Ms. Schlosser to conduct research to determine what Alaska can do as a state "to have some impact on that realm." He expressed concern regarding the issue of hidden fees.

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CHAIR KITO announced that HB 180 would be held over.

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ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:48 p.m.