

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

February 28, 2018

3:19 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)

**OTHER LEGISLATORS PRESENT**

Representative Dan Ortiz

**COMMITTEE CALENDAR**

HOUSE BILL NO. 341

"An Act relating to the athletic commission and the commissioner of athletics; and relating to boxing, sparring, and wrestling contests, matches, and exhibitions."

- MOVED HB 341 OUT OF COMMITTEE

HOUSE BILL NO. 350

"An Act relating to certain fees for using an automated teller machine."

- HEARD & HELD

HOUSE BILL NO. 277

"An Act relating to the regulation of broadband Internet; and making certain actions by broadband Internet service providers unlawful acts or practices under the Alaska Unfair Trade Practices and Consumer Protection Act."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 341

SHORT TITLE: REPEAL:ATHLETIC COMM;BOXING/WRESTLING LAW

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/09/18	(H)	READ THE FIRST TIME - REFERRALS
02/09/18	(H)	L&C, FIN
02/23/18	(H)	L&C AT 3:15 PM BARNES 124
02/23/18	(H)	Heard & Held
02/23/18	(H)	MINUTE(L&C)
02/28/18	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 350

SHORT TITLE: AUTOMATED TELLER MACHINES: FEES

SPONSOR(S): ORTIZ

02/16/18	(H)	READ THE FIRST TIME - REFERRALS
02/16/18	(H)	L&C
02/28/18	(H)	L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE ORTIZ

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Presented HB 350 as prime sponsor.

CAROLINE HAMP, Staff

Representative Dan Ortiz

Alaska State Legislature

Juneau, Alaska

**POSITION STATEMENT:** Answered questions in the hearing on HB 350.

KRISTY NAYLOR, Acting Director

Division of Banking and Securities

Department of Commerce, Community, & Economic Development  
(DCCED)

Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 350.

**ACTION NARRATIVE**

[3:19:17 PM](#)

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

**HB 341-REPEAL:ATHLETIC COMM;BOXING/WRESTLING LAW**

[3:20:10 PM](#)

CHAIR KITO announced that the first order of business would be HOUSE BILL NO. 341, "An Act relating to the athletic commission and the commissioner of athletics; and relating to boxing, sparring, and wrestling contests, matches, and exhibitions."

CHAIR KITO stated he had worked with Mr. Christianson and he understood the concern about the Muhammad Ali Commission. He commented the issue could be pushed forward as it had not needed any consideration since 1997.

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CHAIR KITO stated that public testimony was open [from a previous hearing]. Upon ascertaining that no one else wished to testify, he closed public testimony on HB 341.

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REPRESENTATIVE WOOL moved to report HB 341 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[3:22:02 PM](#)

The committee took an at-ease from 3:22 PM to 3:25 PM.

**HB 350-AUTOMATED TELLER MACHINES: FEES**

[3:25:08 PM](#)

CHAIR KITO announced that the final order of business would be HOUSE BILL NO. 350, "An Act relating to certain fees for using an automated teller machine."

[3:25:37 PM](#)

REPRESENTATIVE ORTIZ, Alaska State Legislature, presented HB 350 as prime sponsor. He paraphrased the sponsor statement

[included in committee packet] which reads as follows [original punctuation provided]:

The intent of this bill is to allow retail automatic teller machines (ATMs) to charge a withdraw fee on transactions made by international bank card holders.

Currently, there is no legal requirement for independently owned ATMs to charge a fee on transactions made by international card holders. Our current law only pertains to ATMs owned by state-sponsored banks or credit unions, and does not include retail and individually owned ATMs. Because of this gap, retail ATMs cannot charge a withdraw fee on transactions from bank cards outside of the United States.

Alaska welcomes millions of visitors each year, with a large percentage of those visitors from out of the country. In the summer of 2016 alone, nearly 300,000 international visitors came to Alaska. Retail ATM owners cannot charge fees on these tourists' transactions. Often, in order to make up for that lost revenue, they increase their fee for those who do pay the surcharge fee, which leads to domestic card users paying a higher fee than international card users.

Multiple other state's have already passed laws to close this gap and allow retail ATM owners to charge a transaction fee to international card holders.

REPRESENTATIVE ORTIZ stated that the committee has a support letter from the National ATM Council and that there is no opposition from the local sponsored banks like Wells Fargo and similar institutions.

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REPRESENTATIVE KNOPP referenced a line in the sponsor statement regarding the lack of a requirement to charge a fee and asked whether there is a prohibition currently against [the fee].

REPRESENTATIVE ORTIZ shared his understanding that single ATM owners that are not affiliated with banks cannot charge fees to international card holders.

REPRESENTATIVE KNOPP surmised that when the law was created, it stated a state-sponsored credit union ATM is okay but retail and private ATMs are not. He asked why the law would have been crafted in a such a way.

REPRESENTATIVE ORTIZ deferred to his staff, Ms. Hamp, to address the question.

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CAROLINE HAMP, Staff, Representative Dan Ortiz, Alaska State Legislature, answered questions in the hearing on HB 350. She stated that when the statutes were written, retail ATMs did not exist. She said the gap in the law was not meant to harm future endeavors for retail ATMs.

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REPRESENTATIVE BIRCH asked if ATM owners could reject an international card. He gave an example of an ATM found at a bar or grocery store.

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REPRESENTATIVE ORTIZ asked whether Representative Birch was asking if it is within the rights of a bar owner not to accept the card.

REPRESENTATIVE BIRCH stated that if a customer didn't pay for a service, then the business could reserve the right to deny services.

REPRESENTATIVE ORTIZ suggested that would force the customer in the bar to find another location. He added that the proposed bill would allow that bar owner to profit from an international visitor that might want to use their card in his bar.

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REPRESENTATIVE WOOL declared a conflict of interest because he owns a private ATM. He shared experiences with customers that used his ATM and stated he did not know what kind of card they used and whether they got processed or not. He said if the international cards are getting rejected, he would like that to change and if they aren't getting charged he'd like them to get charged.

REPRESENTATIVE ORTIZ stated he appreciated Representative Wool's honesty.

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REPRESENTATIVE SULLIVAN-LEONARD suggested that an international tourist visiting Alaska would be charged the transaction and would also be charged a fee from their bank.

REPRESENTATIVE ORTIZ opined that a seasoned traveler would be aware of bank charges. He said when he travels he knows that there is a charge that goes to the individual owner and a charge that goes to the bank. He stated travelers don't have to use a particular bank machine and can go to another location.

REPRESENTATIVE SULLIVAN-LEONARD stated it would be a convenience aspect that any business that has a private ATM would want to bestow upon anyone visiting that establishment. She asked how many states already have similar legislation in place.

Ms. HAMP stated they had heard from the National Council of ATMs that Alaska is the last state to have the gap.

REPRESENTATIVE ORTIZ pointed to a letter from the National ATM Council stating, "To our knowledge, Alaska is the only state left with this unintentional restriction in it's state law."

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CHAIR KITO asked whether there are restrictions in either state or federal law that prohibit this action.

KRISTY NAYLOR, Acting Director, Division of Banking and Securities, Department of Commerce, Community, & Economic Development (DCCED), testified during the discussion of HB 350. She said the division hasn't been able to find anything in state law that prohibits this type of fee being charged. She added that the proposed bill would be part of Title 6 which the division oversees, and the division only has jurisdiction over state-chartered financial institutions such as banks and credit unions. She stated it doesn't extend over to federal institutions such as Wells Fargo or federal credit unions, it wouldn't extend over private ATM owners or private citizens.

CHAIR KITO asked for clarification that the state rules are not in a position to provide any regulations over a private ATM or a federal banking institution.

MS. NAYLOR answered those facilities are not in the banking code and that the state doesn't have jurisdiction over federal banks or private citizens.

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REPRESENTATIVE SULLIVAN-LEONARD asked if the legislature would want to put restrictions around the proposed bill. She suggested a tourist using an international card at a private ATM shouldn't be charged 20 dollars per transaction.

MS. NAYLOR said state law on state financial institutions briefly addresses ATMs. She stated that there are statutes for credit unions and banks, but the language does not address whether a fee should be one dollar or ten dollars. She added restrictions would require the state to oversee that type of program and keep track of all ATMs and related fees. It would be a new oversight the department does not currently have.

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REPRESENTATIVE ORTIZ stated it would be an issue that the legislature could trust the market to manage. He suggested if the fee has to be disclosed, cardholders are going to recognize the price is a lot higher than they would normally pay and could use another machine with a lower fee.

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CHAIR KITO said he has used private ATMs where he was not within walking distance of another ATM that may have charged lower fees.

[3:41:18 PM](#)

REPRESENTATIVE WOOL surmised there is a standard fee regardless of whether the card is foreign or domestic. He said he does not think there is a different fee schedule.

[3:42:11 PM](#)

REPRESENTATIVE JOSEPHSON stated that if there is no difference, it suggests that the state is not currently complying with some requirement.

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REPRESENTATIVE ORTIZ stated that this issue was brought forth by a constituent who is an individual ATM owner. He had been informed that on international transactions there is no fee that they can collect. He added that if an international traveler goes into a Wells Fargo they do pay a fee. Individual owners are losing out on fees they could have collected.

REPRESENTATIVE JOSEPHSON stated the fiscal note says, "The Division of Banking and Securities does not currently regulate ATM fees." He asked who regulates ATM fees.

REPRESENTATIVE ORTIZ deferred to Ms. Naylor.

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CHAIR KITO reiterated Representative Josephson's question.

MS. NAYLOR stated there may be federal law that pertains to the state banks as well as the federal banks, but as far as private citizens are concerned, she is not aware of anybody that regulates them.

REPRESENTATIVE JOSEPHSON surmised that the cardholder would go to the business owner in the event of an issue with the ATM.

MS. NAYLOR stated that would be her assumption as well.

REPRESENTATIVE KNOPP stated that he reached out to a friend that owns a private ATM who had said he doesn't see any card that goes into the machine and he think that there is a fee being assess but not sure if it's being paid. He asked whether the processing center would be the only party to know whether the card is international.

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REPRESENTATIVE WOOL shared his experience with an ATM he owns. The customers are charged a fee, and at the end of the month, he receives checks from the processing company on the number of transactions. He said he doesn't know which bank the cardholder used; the transactions aren't itemized. He surmised there is

probably a report he could print out but as far as he knows he gets a flat fee for each transaction. He suggested cardholders are getting charged twice; once by the ATM owner and another time by the bank.

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CHAIR KITO opened public testimony on HB 350. He stated he would leave public testimony open.

CHAIR KITO held over HB 350.

[3:48:13 PM](#)

#### **ADJOURNMENT**

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