

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

May 2, 2018

3:16 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

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

COMMITTEE CALENDAR

CS FOR SENATE BILL NO. 86(FIN) AM

"An Act relating to the sale or other disposal, leasing, or encumbrance of Alaska Railroad Corporation land; relating to the financing and bonding authority of the Alaska Railroad Corporation; and providing for an effective date."

- HEARD & HELD

CS FOR SS FOR SENATE BILL NO. 76(FIN)

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, retailers, and common carriers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 86

SHORT TITLE: ALASKA RAILROAD CORP: LAND; BONDS, FINANCE

SPONSOR (s) : SENATOR (s) COGHILL

03/10/17 (S) READ THE FIRST TIME - REFERRALS
03/10/17 (S) RES, FIN
04/07/17 (S) RES AT 3:30 PM BUTROVICH 205
04/07/17 (S) Heard & Held
04/07/17 (S) MINUTE(RES)
02/09/18 (S) RES AT 3:30 PM BUTROVICH 205
02/09/18 (S) Heard & Held
02/09/18 (S) MINUTE(RES)
02/12/18 (S) RES AT 3:30 PM BUTROVICH 205
02/12/18 (S) Moved CSSB 86(RES) Out of Committee
02/12/18 (S) MINUTE(RES)
02/14/18 (S) RES RPT CS 3DP 3NR 1AM SAME TITLE
02/14/18 (S) DP: GIESSEL, COGHILL, MEYER
02/14/18 (S) NR: BISHOP, VON IMHOF, STEDMAN
02/14/18 (S) AM: WIELECHOWSKI
03/05/18 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/05/18 (S) Heard & Held
03/05/18 (S) MINUTE(FIN)
03/27/18 (S) FIN AT 9:00 AM SENATE FINANCE 532
03/27/18 (S) Moved CSSB 86(FIN) Out of Committee
03/27/18 (S) MINUTE(FIN)
03/28/18 (S) FIN RPT CS 6DP 1NR NEW TITLE
03/28/18 (S) DP: HOFFMAN, MACKINNON, BISHOP, VON
IMHOF, STEVENS, MICCICHE
03/28/18 (S) NR: OLSON
04/09/18 (S) TRANSMITTED TO (H)
04/09/18 (S) VERSION: CSSB 86(FIN) AM
04/11/18 (H) READ THE FIRST TIME - REFERRALS
04/11/18 (H) L&C, FIN
04/16/18 (H) L&C AT 3:15 PM BARNES 124
04/16/18 (H) -- MEETING CANCELED --
05/02/18 (H) L&C AT 3:15 PM BARNES 124

BILL: SB 76

SHORT TITLE: ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

SPONSOR (s) : SENATOR (s) MICCICHE

03/03/17 (S) READ THE FIRST TIME - REFERRALS
03/03/17 (S) L&C, JUD
05/11/17 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
05/11/17 (S) L&C, JUD
03/13/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/13/18 (S) Heard & Held
03/13/18 (S) MINUTE(L&C)
03/15/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)

03/15/18 (S) Heard & Held
 03/15/18 (S) MINUTE(L&C)
 03/20/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/20/18 (S) Heard & Held
 03/20/18 (S) MINUTE(L&C)
 03/22/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 03/22/18 (S) Heard & Held
 03/22/18 (S) MINUTE(L&C)
 04/03/18 (S) L&C AT 1:30 PM BELTZ 105 (TSBldg)
 04/03/18 (S) Moved CSSSSB 76(L&C) Out of Committee
 04/03/18 (S) MINUTE(L&C)
 04/06/18 (S) L&C RPT CS 2DP 1NR 1AM SAME TITLE
 04/06/18 (S) NR: COSTELLO
 04/06/18 (S) DP: MICCICHE, MEYER
 04/06/18 (S) AM: GARDNER
 04/11/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/11/18 (S) Heard & Held
 04/11/18 (S) MINUTE(JUD)
 04/13/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 04/13/18 (S) FEDS RESPECT STATE REG OF MARIJUANA
 04/14/18 (S) JUD RPT CS 1DP 1NR 2AM NEW TITLE
 04/14/18 (S) DP: COGHILL
 04/14/18 (S) NR: WIELECHOWSKI
 04/14/18 (S) AM: COSTELLO, SHOWER
 04/14/18 (S) FIN REFERRAL ADDED AFTER JUD
 04/14/18 (S) JUD AT 9:00 AM BELTZ 105 (TSBldg)
 04/14/18 (S) Moved CSSSSB 76(JUD) Out of Committee
 04/14/18 (S) MINUTE(JUD)
 04/17/18 (S) FIN AT 1:30 PM SENATE FINANCE 532
 04/17/18 (S) Heard & Held
 04/17/18 (S) MINUTE(FIN)
 04/27/18 (S) FIN AT 1:30 PM SENATE FINANCE 532
 04/27/18 (S) Heard & Held
 04/27/18 (S) MINUTE(FIN)
 04/30/18 (S) FIN RPT CS 4DP 3NR NEW TITLE
 04/30/18 (S) NR: HOFFMAN, MACKINNON, OLSON
 04/30/18 (S) DP: BISHOP, VON IMHOF, STEVENS,
 MICCICHE
 04/30/18 (S) TRANSMITTED TO (H)
 04/30/18 (S) VERSION: CSSSSB 76(FIN)
 04/30/18 (S) FIN AT 9:00 AM SENATE FINANCE 532
 04/30/18 (S) Moved CSSSSB 76(FIN) Out of Committee
 04/30/18 (S) MINUTE(FIN)
 05/01/18 (H) READ THE FIRST TIME - REFERRALS
 05/01/18 (H) L&C, FIN
 05/02/18 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

SENATOR JOHN COGHILL
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented SB 86 as the sponsor of the bill.

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

POSITION STATEMENT: Answered questions on behalf of the SB 86 bill sponsor, Senator Coghill.

CRYSTAL KOENEMAN, Staff
Representative Sam Kito
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the proposed committee substitute to SB 86, Version N, on behalf of the committee chair, Representative Kito.

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during discussion of the proposed committee substitute to SB 86 Version N.

WILLIAM O'LEARY, President & CEO
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: Answered questions during discussion of SB 86.

ANDY BEHREND, Chief Counsel
Alaska Railroad Corporation
Anchorage, Alaska

POSITION STATEMENT: Answered questions during discussion of SB 86.

CURTIS MCQUEEN, CEO
Eklutna Inc.
Eagle River, Alaska

POSITION STATEMENT: Testified in support of SB 86.

FRED ROSENBERG
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 86.

JODI TAYLOR
Church of Jesus Christ of Latter-Day Saints
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 86.

RACHEL HANKE, Staff
Senator Peter Micciche
Alaska State Legislature
Alaska State Legislature

POSITION STATEMENT: Presented the changes to SB 76 on behalf of the bill sponsor, Senator Micciche.

ANNA BRAWLEY, Coordinator
Title 4 Review Project
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

TIFFANY HALL, Executive Director
Recover Alaska
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 76.

DALE FOX, President
Alaska Cabaret, Hotel, Restaurant and Retailers Association
(CHARR)

Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

CHRYSTAL SHOENROCK, Secretary
Kenai Peninsula CHARR
Nikiski, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

DARWIN BIWER
Darwin's Theory
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

JEANNE REILLY
Reilly's Irish Pub
Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

ABBY WILLIAMS, Co-Owner
Louie's Douglas Inn

Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

GEORGE TIPTON

My Office

Ketchikan, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

ARDEN RANKIN

Sunrise Inn

Cooper Landing, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

DAVID CALDWELL

Moose's Tooth, Bear Tooth, and Broken Tooth

Anchorage, Alaska

POSITION STATEMENT: Testified in support.

RYAN MAKINSTER, Executive Director

Brewers Guild of Alaska

Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

JOEL KADARAUCH, Director

Alaska Beer, Wine, and Spirits Wholesalers Association

Anchorage, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

LARRY HACKENMILLER, General Manager

CHARR Interior

Fairbanks, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

ROB BORLAND

Ursa Major Distilling

Fairbanks, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

ERIC FORST, Partner

Red Dog Saloon

Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

JACK MANNING, Owner

Duck Creek Market

Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

RAY KAISER
Squires Rest
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 76.

MARK ERICKSON, Owner
Lucky Lady Pub
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

CHARLIE HERRINGTON
Juneau's Waterfront Restaurants
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

REECIA WILSON, Owner
Hanger on the Wharf
Twisted Fish Company
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

PAUL THOMAS, Owner
Alaska Cache Liquor
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

TOM MANNING, Owner
Duck Creek Market
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

LEANN THOMAS
Triangle Club
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

PETE THIBODEAU, Owner
Thibodeau's Market, Inc.
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

CHRIS MIEIER
Alaska Travel Adventures
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

JARED CURE

The Narrows Bar
Juneau, Alaska

POSITION STATEMENT: Testified during discussion of SB 76.

BRANDON HOWARD, Owner/Founder

Amalga Distillery
Representative

Distillery Guild of Alaska

POSITION STATEMENT: Testified in support of SB 76.

DIANE KAPLAN, President, CEO

Rasmussen Foundation
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

HEATHER SHADE

Port Chilkoot Distillery
Haines, Alaska

POSITION STATEMENT: Testified in support of SB 76.

ROBIN MINARD, Director

Public Affairs
Mat-Su Health Foundation
Wasilla, Alaska

POSITION STATEMENT: Testified in support of SB 76.

DICK ROSSTON

Alyeska Resort
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 76.

ALISON KULAS

Division of Behavioral Health
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 76.

ACTION NARRATIVE

[3:16:11 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Kito, Wool, Josephson, Stutes, Birch, and Knopp were present at the call to order. Representative Sullivan-Leonard arrived as the meeting was in progress.

SB 86-ALASKA RAILROAD CORP: LAND; BONDS, FINANCE

[3:17:04 PM](#)

CHAIR KITO announced that the first order of business would be CS FOR SENATE BILL NO. 86(FIN) am, "An Act relating to the sale or other disposal, leasing, or encumbrance of Alaska Railroad Corporation land; relating to the financing and bonding authority of the Alaska Railroad Corporation; and providing for an effective date."

[3:17:33 PM](#)

SENATOR JOHN COGHILL, Alaska State Legislature, paraphrased from the sponsor statement [included in member packet], which reads as follows [original punctuation provided]:

SB 86 repeals the current requirement for legislative approval prior to an Alaska Railroad Corporation (ARRC) land sale or land lease for more than 95 years and enables the ARRC to react much more quickly and efficiently to real estate opportunities and land transactions with state entities such as DOTPF for state road and facility projects.

SB 86 will put ARRC on an even playing field with the Department of Transportation and Public Facilities (DOTPF), the Department of Natural Resources (DNR), the Alaska Mental Health Lands Trust, and the University of Alaska.

The bill would enable ARRC to sell land on which development would not occur with a land lease such as real estate in residential areas that could be subdivided for home construction. Such an incentive could increase private land ownership, encourage private development, and increase the local tax base.

SB 86 will allow ARRC to monetize non-performing land assets, generate cash flow to respond to opportunities in the real estate market, enhance the overall real estate portfolio of ARRC, and enable ARRC to continue to comply with the statutory mandate to remain self-sufficient.

SB 86 has a three-year sunset provision.

[3:22:02 PM](#)

REPRESENTATIVE JOSEPHSON asked about a legal opinion stating there is no constitutional problem with the bill except that any funds received by the railroad have to be appropriated to the railroad.

SENATOR COGHILL replied that the question of appropriation is unsettled. He deferred to his staff to present the citation.

[3:25:04 PM](#)

RYNNIEVA MOSS, Staff, Senator John Coghill, Alaska State Legislature, said there is a provision in Public Law 97468, January 14, 1983, that states that revenues generated by the state-owned railroad shall be retained and managed by the railroad for railroad and related purposes. She added that Senator Stevens had specified on the record that the provision is in public law to eliminate the necessity to appropriate the money to the railroad.

[3:25:52 PM](#)

REPRESENTATIVE WOOL moved to adopt the proposed committee substitute (CS) for CSSB 86 as the working draft.

[3:26:06 PM](#)

CHAIR KITO objected for the purpose of discussion.

[3:26:18 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sam Kito, Alaska State Legislature, paraphrased the explanation of changes, Senate Bill 86, Version U.A to Version N [included in member packet], which reads as follows [original punctuation provided]:

Adds a new subsection to 42.40.350 that prohibits the Alaska Railroad Corporation to exercise management authority over lands which were unlawfully transferred in violation of state law.

Adds a new subsection 42.40.410 that states that any land or interest in land the Alaska Railroad Corporation received from the U.S. Department of the Interior that was not conclusively owned by the United

States at the time of transfer does not satisfy the exception from legislative approval required under AS 42.40.285.

Provides for Legislative Approval of the transfer of Real Property to Eklutna, Inc. and the Municipality of Anchorage.

All other provision in version U.A have been removed.

CHAIR KITO explained that the transfer language is in Sections 4 and 5. He called on Representative Kopp for a brief explanation of Sections 1, 2, and 3.

[3:28:24 PM](#)

REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, said the aim of the proposed changes is to clarify the rights of the Alaska Railroad Corporation over the right of way and to prevent the ARRC from exerting perceived authority to continue to purchase private property in violation of federal and state law. He said there is no railroad corporation property transferred from federal or state ownership which will be affected by the amendments. He pointed to Section 2, AS 42.40.350, and said it uses the phrase "to not have authority over real property." The railroad corporation is given its authority in state law. The amendment clarifies that the authority does not include the ability to take action on or otherwise manage property unlawfully obtained. He added that the amendment to AS 42.40.410 uses the term "conclusively owned", which means any individual parcel's chain of title clearly states the federal government was the owner of the title or interest at the time, and as stated by the ARRC, each parcel would have to be individually examined to determine what the federal government owned when it transferred rail properties which only included the right, title, and interest in those properties which belonged to the federal government. If it becomes clear that the ARRC is only in possession of the federal interest in those parcels of land, then the amendments would have no effect. He referenced a letter from Congressman Don Young in which he said there is no way that a bill quietly annexing private property rights would have passed the Congress in 1982.

[3:32:50 PM](#)

REPRESENTATIVE JOSEPHSON asked about page 2, line 30 of the CS. He asked what the statute of limitations is on the determination of ownership.

REPRESENTATIVE KOPP replied that regardless of the statute of limitations, if an unlawful taking occurred, it cannot be unconstitutional to attempt to right it. He said the discussion arose more recently when the ARRC has claimed an interest. The homesteaders were never notified and there was no question of whether they owned the land.

REPRESENTATIVE JOSEPHSON asked whether anything could be construed to imply that [if there was] a failure of the federal government to afford due process for any claims in the mid-1980s, the costs of any prospective litigation would fall on the state or on the ARRC.

[3:35:00 PM](#)

REPRESENTATIVE KOPP answered the query highlights the most important reason for the CS. He said the proposal gives direction to the ARRC to ascertain what the federal interest was at the time of the transfer. He said he sees the state liable only if it takes no action.

REPRESENTATIVE JOSEPHSON spoke to the concern over 30,000 acres in the Fairbanks, Alaska, area. He asked whether the concerns "overlap with" the sites of the lands in question.

REPRESENTATIVE KOPP answered that he fully supports the ARRC sale of the two land parcels. He said he does not know where the "30,000 acres" comes from. He stated the resolution spoke to the claims to the right-of-way that was across homestead property. He explained the federal government has completely divested itself of all ownership in the land and had not issued two homestead patents but left it as one homestead with a standard easement. The reading is that the ARRC only received what the federal interest was, and it was on public lands.

[3:39:17 PM](#)

CHAIR KITO removed his objection.

[3:39:23 PM](#)

REPRESENTATIVE JOSEPHSON objected.

[3:39:44 PM](#)

REPRESENTATIVE SULLIVAN-LEONARD maintained her objection.

[3:40:03 PM](#)

WILLIAM O'LEARY, President & CEO, Alaska Railroad Corporation (ARRC), said the ARRC has objections to the language in the CS. He stated that if there were an erroneous transfer, the federal government should bear the burden. He said the concept of restitution from the federal government is very different from creating a patchwork quilt of land use rights across the state.

[3:43:18 PM](#)

REPRESENTATIVE JOSEPHSON asked what part of the language in the CS would shift the burden.

MR. O'LEARY said it is in Section 2. He deferred to legal counsel for a better description.

[3:44:18 PM](#)

ANDY BEHREND, Chief Counsel, Alaska Railroad Corporation (ARRC), answered the language in Sections 2 and 3 does concern the ARRC. He said in the event of a transfer of a federal interest that was greater than what they owned at the time, the typical approach would be a claim in federal court for compensation. He said the language would take rights that were in the agreement since 1985 for 95 percent of the right-of-way that have been in the patent for 10 to 30 years. He said the language would tell the railroad it can no longer claim those rights.

[3:47:34 PM](#)

REPRESENTATIVE BIRCH disclosed he previously worked closely with Mr. O'Leary. He asked if the railroad had undertaken any initiative to shore up any property interested in the intervening years.

MR. BEHREND explained the first thing that happened with the transfer occurred was that the federal government transferred all of its interests. Afterwards, for any land that had not been fully surveyed, surveys were completed, and the final patents were issued. He added that the U.S. Dept. of the Interior, Interior Board of Land Appeals (IBLA) looked at the

transfer act and determined that the Division of Land Management (DLM) had followed that act.

[3:51:26 PM](#)

REPRESENTATIVE BIRCH asked if the railroad asserted an interest in property if the government did not own it at the time of transfer.

MR. BEHREND answered in the affirmative. He added that the federal government transferred all of the interest to the ARRC for each parcel in the right-of-way. He said that if there were mistakes in transferring any of the land, the interest still passed to the ARRC and was put into the patent. If that happened, then it constitutes a taking by the federal government which should be addressed with them.

[3:54:12 PM](#)

REPRESENTATIVE JOSEPHSON said it sounded like the ARRC enjoys a strong presumption under federal law that in the event of an improper transfer, the railroad is insulated from liability. He suggested Sections 2 and 3 act to attenuate the "shield of protection" and potentially foist [liability] on the railroad directly.

MR. BEHREND said he thinks that is an accurate way to put it. He said that the act contains an express guarantee that the federal government would defend any challenge. He added the language in the proposed bill says the railroad cannot exercise authority over the land.

[3:57:02 PM](#)

REPRESENTATIVE WOOL asked whether the ARRC would like to see the projects move forward.

MR. O'LEARY said the projects are both very good.

[3:57:33 PM](#)

REPRESENTATIVE STUTES asked if the property would be sold outright or partner with whatever development takes place.

MR. O'LEARY explained the sales would be outright and there would be a land trade with Eklutna [Inc.].

REPRESENTATIVE STUTES asked if there is an anticipated project that would be funded through the proceeds.

MR. O'LEARY said funds from land sales are used for other real estate activities such as improving access and water and sewer improvements, and not for rail operations.

REPRESENTATIVE STUTES said it sounds like the ARRC will become a real estate holding company.

MR. O'LEARY said the ARRC is still an operating entity. He said the decision was a wise one and real estate activities provide a significant buffer for other operations.

[4:00:23 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the railroad would rather have the bill with or without the language in question.

MR. O'LEARY answered the ARRC would like to see the legislation move forward.

[4:01:20 PM](#)

REPRESENTATIVE JOSEPHSON removed his objection.

REPRESENTATIVE SULLIVAN-LEONARD maintained her objection.

[4:01:32 PM](#)

A roll call vote was taken. Representatives Knopp, Stutes, Wool, Birch, and Kito voted in favor of adopting the proposed committee substitute (CS) for CSSB 86 as the working draft. Representatives Sullivan-Leonard and Josephson voted against it. Therefore, Version N was adopted as the working draft by a vote of 5-2.

[4:02:14 PM](#)

CHAIR KITO opened public testimony on SB 86.

[4:02:27 PM](#)

CURTIS MCQUEEN, CEO, Eklutna Inc., testified in support of SB 86. He gave the background of his corporation. He stated the Alaska railroad goes through Eklutna lands. He said they have a longstanding relationship with the railroad. He said the Eklutna

corporation represents the traditional village of Anchorage. He stated they recognize how crucial the railroad is to the economy of the area. He stated the Eklutna corporation owns a lot of property in the area and it appreciates the ARRC's support. He stated Eklutna, Inc. owns property that would be made contiguous through the proposal. He said it is thought appropriate to have a "trial run" of three years to give the ARRC an opportunity to try.

[4:05:56 PM](#)

FRED ROSENBERG said he is a property owner who has property near the railroad. He said it appears the ARRC has been supporting the idea of going to court. He said he does not see it as a court issue. He said under Alaska Railroad Transfer Act (ARTA), the ARRC has a federal interest in the right-of-way. He referred to the letter from Congressman Young. He stated federal interest does not include private rights. He stated it was a specious argument to suggest that the government has any right to do so. If the government did not own it, it cannot transfer it.

[4:08:42 PM](#)

JODI TAYLOR, Church of Jesus Christ of Latter-Day Saints, stated the church has owned property in Willow, Alaska, for many years. She said the issue has cut them off from the other part of their property. She stated adoption of the proposed language is a win-win.

[4:09:52 PM](#)

CHAIR KITO held over SB 86.

SB 76-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[4:10:24 PM](#)

CHAIR KITO announced that the final order of business would be CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76(FIN), "An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, retailers, and common carriers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

[4:10:31 PM](#)

The committee took an at-ease from 4:10 p.m. to 4:15 p.m.

[4:16:35 PM](#)

RACHEL HANKE, Staff, Senator Peter Micciche, paraphrased from the explanation of changes, Version N to Version C [included in member packets], which reads as follows [original punctuation provided]:

Changes by Sponsor Prior to First Hearing

1. Page 6, lines 2, 9, 16: Remove replace "the" with "each"
2. Page 13, lines 3-4, page 26, lines 29-30, and page 112, lines 27-28: Insert existing definition for "entertainment", was left out inadvertently in drafting.
3. Page 19, lines 6-13: Clarify intent that a current recreational site license holder has four renewal periods to comply with statute.
4. Page 32, line 6 and page 33 line 12: Clarify intent by changing "may" to "shall".
5. Page 37, line 16: Specify that package stores are intended to deliver only to social events as defined by the board.
6. Page 38, lines 2, 5: Change "package store shipping" to "package store delivery", drafting error.
7. Page 41, AS 04.09.520 (Brewery Repackaging Endorsement): Strike previous (c)(2) which read "may only subdivide the holder's brewed beverages in response to a purchase from a person who is on the licensed premises". This section is redundant because a person is already required to be on the licensed premises.
8. Page 42, line 5: Replace "package store" with "brewery manufacturer", drafting error.
9. Page 42, line 10: Clarify intent by replacing "owned, wholly or in part" with "controlled".
10. Page 44, lines 22, 25: Change reference from board to the director at the request of legislative legal.
11. Page 45, lines 3-4, 31 and page 46, line 1: Grammatical changes for clarity.
12. Page 45, lines 27-30: Insert "An alcoholic beverage auction permit may be operated on the

licensed premises of a beverage dispensary license, beverage dispensary tourism license, club license, restaurant or eating place license, or seasonal restaurant or eating place license." Existing regulation language specifies intent.

13. Page 54, line 9: Insert "license with" into title. Clarify that endorsements are used in conjunction with a license.

14. Page 63, lines 16-17, 20-23: Changes to clarify existing authority over restrictions. Senator.Peter.Micciche@akleg.gov

15. Page 75, line 20: Remove "or a new location" to clarify that an endorsement cannot be transferred to a new location, the license does.

16. Page 76, lines 30-31: Conforms to current practice.

17. Page 81, line 31: Title change to accurately reflect the section.

18. Page 95 line 31, page 96 lines 1-2, 6-7, 22-23, 27-28: Minor language changes for clarity.

19. Page 112, line 27: Change five to three, conforms to the rest of the bill.

20. All effective dates updated.

Senate Labor & Commerce

1. Page 21, AS 04.09.310 (Brewery Retail License): Delete subsections (g) and (h). Remove reference to these in subsection (i).

2. Pages 22, AS 04.09.320 (Winery Retail License): Delete subsections (g) and (h). Remove reference to these in subsection (i).

3. Page 23, AS 04.09.330 (Distillery Retail License): Delete subsections (g) and (h). Remove reference to these in subsection (i).

Removal of subsections (g) eliminates the requirement of manufacturer retail licensees to sell not more than 20 percent of their total volume to the public after four license renewal periods. Removal of subsections (h) eliminates the grandfathering provisions for current manufacturer retail licensees from subsection (g).

4. Pages 97 and 99, AS 04.21.025(a) and (f): Restructures section for clarity. Adds existing section (e) to the penalty provision, subsection (g).

Senate Judiciary

1. Page 13, line 15: Lower \$2,500 biennial club license fee to \$1,500.
2. Page 18, line 25: Amends the sporting event license by allowing service from multiple noncontiguous locations.
3. Page 20, line 23: Amends the destination resort license by allowing service from multiple noncontiguous location.
4. Page 27, line 28: Insert "with a zip code" following "address".
5. Page 28, lines 22-23: Insert "zip codes that are located within" following "public inspection of".
6. Page 48, line 26 through page 50, line 3: Creates new Article 7. Common Carrier Approval in section 9 using subsections AS 04.16.125(a)-(f) and (i)-(l) from sections 104-106 (sec. 105 ver. M). This makes an important distinction between administrative violations against a common carrier licensee and the crime of unauthorized transportation of alcoholic beverages by a common carrier into a local option area by a person.
7. Page 68, line 31: Lower the waiting period between board petitions from 10 years to 5 years.
8. Page 86: Deletes previous sections 92 and 93 (secs. 91&92 ver. C) which amended the charges for furnishing or delivering to a minor. Intention is that penalties will remain unchanged.
9. Page 87, line 10: Renumbers the following sections accordingly. Removes violation penalty for renting a room for the purpose of providing alcoholic beverages to a person under 21 years of age and makes the crime a class A misdemeanor.
10. Page 88, lines 11, 15: Amends sections by specifying that a person 21 year of age or older is subject to the \$100 fine for consumption at a school event.
11. Page 89, lines 19-31 through page 90, line 14: Adds reference to new approved common carriers section [see change 6]. Simplifies existing AS 04.16.125 and relocates existing class A misdemeanor into new subsections (d) and (e) for clarity.

Senate Finance

1. Page 18, line 30: adds "rodeos" to the definition of "sporting event site" to ensure that the current

practice for sporting event licenses remains consistent.

2. Page 61, lines 13-15: codifies the current practice of allowing the sale of a beverage dispensary tourism license.

3. Page 61: Deletes previous section 37, which sunset AS 04.11.360(9) and (10) - these are now included with the repeals in section 152. All section numbers following this section have been renumbered.

4. Page 63, line 25; Page 64, lines 1, 12, 21, 27; Page 65, lines 25: statutory reference corrected.

5. Page 66, line 9: Corrects statutory references.

6. Page 68, line 31: shortens the time that a municipality must wait between requesting restaurant or eating place licenses to three years, instead of five years.

7. Page 82, lines 28-29: Rewords for clarity. The intent is that the license holder is liable for a violation by an employee and they are subject to a \$250 administrative penalty.

8. Page 85, line 25 through page 86, line 18: makes conforming changes to AS 04.16.051(d) and adds a new (e). These sections insert existing penalties into the correct sections and reformats the language to conform to the rest of the bill.

9. Page 86, lines 20-24: Rewords for clarity. The intent is that the license holder is liable for a violation by an employee and they are subject to a \$250 administrative penalty.

10. Page 88, lines 12-13: clarifies the intent of the prohibition on "consuming alcohol at a school event."

11. Page 92, lines 19-23: requires a license to be revoked if for a third violation of certain offenses within five years:

- o 04.16.022 Online sales and purchase of alcoholic beverages

- o 04.16.030 Prohibited conduct relating to drunken persons

- o 04.16.052 Furnishing of alcoholic beverages to persons under the age of 21 by licensees.

- o 04.16.110 Sale of certain alcoholic beverages prohibited.

- o 04.16.175 Furnishing alcoholic beverages in aid of gambling enterprise.

12. Page 104, lines 11-13: Reformats the language to conform to the rest of the bill.

13. Page 109, line 3: Adds repeals that were previously in section 37 (see page 61 note).

14. Page 109, lines 10-11 through page 111, line 22: Corrects section numbers and statutory references in applicability and transition language.

15. Page 113, lines 8-9: Corrects effective dates - specifically removes previous sections 96 and 133 from immediate effective date provision and add sections 157(a)(1), 157(a)(2) and 157(b)(8).

[4:27:37 PM](#)

TIFFANY HALL, Executive Director, Recover Alaska, testified in support of SB 76.

REPRESENTATIVE SULLIVAN-LEONARD asked whether Ms. Hall thinks the current version is a good compromise in the efforts to rewrite Title 4.

MS. HALL answered in the affirmative.

REPRESENTATIVE WOOL asked about the compromises not reflected in the bill.

MS. HALL explained serving drinks in distilleries was one example of the issue not being concluded due to lack of consensus.

[4:30:24 PM](#)

DALE FOX, President, Alaska Cabaret, Hotel, Restaurant and Retailers Association (Alaska CHARR), said that the vast majority of changes in the current version were improvements. He underlined that some changes were to areas of the proposal which originally had consensus and did not with the changes. He said the definition of manufacturers was one. He spoke to the 80-20 rule in which 80 percent of product had to be sold through normal retail chains, which had been changed from a longstanding rule of 100 percent. He said there is a harsh penalty section which is not supported by the industry. He gave examples of small technical changes that could make the bill better. He said that eating places can serve a beverage "with a meal" and that language is not present in the proposed legislation. He spoke to the Uniform Commercial Code (UCC) filing of transactions regarding licenses sold between parties. He explained the licenses are subject to a number of rules for transfer. He said that for 40 years those filings have been

allowed. Recently the ABC Board has said it is no longer allowed. He added there are a number of other small technical issues.

REPRESENTATIVE WOOL declared that he is a beverage dispensary license (BDL) owner. He asked Mr. Fox whether all of the controversial items were "left off" the Title 4 rewrite.

MR. FOX said that a lot of issues were left on the table. He underlined the group had always "worked towards yes."

[4:39:02 PM](#)

REPRESENTATIVE STUTES asked about the "three strikes" amendment. She said she thinks the amendment is ambiguous

MR. FOX said that the group disagreed with the amendment. He gave some scenarios in which the strikes may affect "good operators." He underlined that the small fine in the amendment would cause the owner to pay the fine rather than go to court, leading to one of the three strikes. He said there is a wide difference between a night club serving hundreds of people and a corner bar serving the same small group most of the time. He suggested the Alcohol Beverage and Control (ABC Board) should examine each instance before revoking licenses. He stated, "One size does not fit all."

[4:42:28 PM](#)

REPRESENTATIVE JOSEPHSON asked whether the ABC board had regulations to understand the totality of the circumstances.

CHAIR KITO said the question had been brought to the department.

REPRESENTATIVE JOSEPHSON asked if the proper fix would be to revamp the language entirely.

MR. FOX explained that currently the ABC Board may suspend the owner for 45 days for a first offence, for 90 days at the second offence, and revoke the license for the third offense. He said he thinks it is wise to leave the decision to the ABC Board. He added he thinks it can be achieved by change a couple of sentences in the language.

[4:45:18 PM](#)

REPRESENTATIVE BIRCH expressed his concern that small entrepreneurs could be driven out of business. He asked if Mr. Fox thought the bill would grow small businesses or would be a threat.

MR. FOX answered there has been a change of business model with the introduction of tasting rooms and samples for manufacturers. He said many breweries are selling through standard retail avenues. However, some have decided to sell through their manufacturing site. He said it is a "zero-sum game" but the issue is whether craft manufacturers can offer a sample so that customers can try the product and go on to purchase it in bars and stores. He added that some breweries had also discovered they can make a lot more money selling the product through tasting rooms and so have stopped selling to the standard retail outlets.

[4:50:13 PM](#)

REPRESENTATIVE KNOPP asked about sampling in package stores.

MR. FOX said members of the working group had lots of opinions. He said that the proposal was for free samples only from the stock of the package store. He added that the sample sizes in the proposal may be a little too high.

REPRESENTATIVE WOOL asked about free samples in the manufacturer tasting room.

MR. FOX answered that he does not know the history.

[4:54:36 PM](#)

REPRESENTATIVE BIRCH asked about the cost of a license for restaurants serving only beer and wine.

MR. FOX said that the bill provided many new opportunities. He said there are a number of new licenses available. He drew comparisons with different commercial fishing licenses.

REPRESENTATIVE STUTES commented that she thought the sample sizes for tasting rooms are too large.

MR. FOX agreed that the amounts should be adjusted by the committee.

REPRESENTATIVE STUTES asked about the difference between distilleries and fully licensed bars.

MR. FOX said he thinks the delineation should be size of drinks and opening hours. He said the product should be displayed in the way it is consumed. He added that some of his members think distilleries should only be allowed to serve straight product.

[5:01:39 PM](#)

CHAIR KITO opened public testimony on SB 76.

[5:01:50 PM](#)

CHRYSTAL SHOENROCK, Secretary, Kenai Peninsula CHARR, shared her viewpoint on aspects of the bill.

[5:04:42 PM](#)

DARWIN BIWER, Darwin's Theory, testified in support of SB 76. He said he believes the bill does not go far enough on some issues and goes too far on others. He said he thinks tasting room quantities are too high. He said he thinks it should be reduced from 36 ounces to 16 ounces. He said he thinks distilleries should have smaller containers.

[5:07:26 PM](#)

CHAIR KITO clarified that the limits were set out in statute prior to the current proposed legislation.

[5:08:04 PM](#)

JEANNE REILLY, Reilly's Irish Pub, testified in support of SB 76. She said licenses for distilleries are set up by the state at a reasonable fee. She said all of the licenses were based on population. She added that new licenses are being issued by the state at a small fee so that license owners do not have "as much meat in the game" as those possessing BDLs.

[5:10:14 PM'](#)

ABBY WILLIAMS, Co-Owner, Louie's Douglas Inn, spoke about the unfair advantage and the three-tier system. She gave her opinion of new and innovative businesses. She stated she wishes to maintain the integrity of her BDL license. She said she did not expect to be competing with a license owner with a profit

margin much smaller than hers. She said she did not believe the intent of the three-tier system was to allow distilleries to serve cocktails which put them in direct competition with the BDL owners.

[5:13:09 PM](#)

GEORGE TIPTON, CHARR board member, testified in support of SB 76. He said a few additional amendments are needed, including the UCC filing issue mentioned by Mr. Fox. He said the process had been accepted by the department until recently. He stated many do not have the cash to purchase licenses outright. He said there are tax consequences to the issue. He said federal income tax could eat up the security interest. He stated it would be an easy fix.

MR. TIPTON said he owns a number of licenses and the volume is part of a business model. He said he thinks it is fair that licenses follow the regulation that no one remain on the premises after business hours.

REPRESENTATIVE KNOPP asked about the rationale for not allowing UCC filings.

MR. TIPTON answered it made no sense to him.

[5:17:39 PM](#)

ARDEN RANKIN, Sunrise Inn, testified in support of HB 357. She said she thinks there needs to be a clear and separate distinction between bars and distilleries. She added she thinks samples should only be offered in limited size and number and should not be mixed drinks.

[5:20:14 PM](#)

DAVID CALDWELL, Moose's Tooth, Bear Tooth, and Broken Tooth said he hopes the legislation can be passed this year.

[5:20:53 PM](#)

RYAN MAKINSTER, Executive Director, Brewers Guild of Alaska, stated there was not consensus or compromise with the change regarding the 80-20 rule at the final meetings. He addressed Representative Stutes' query regarding delineations between tasting rooms and bars. He underlined that tasting rooms cannot serve after 8 p.m. He said he does not know of people coming to

tasting rooms being served all day. He said the manufacturers have capital expenditures placed in tools and materials.

[5:24:49 PM](#)

REPRESENTATIVE WOOL asked whether Mr. Makinster feels that more outlets for drinking would devalue the existing licenses.

MR. MAKINSTER answered he was referring to capital costs only in terms of the level playing field.

[5:27:10 PM](#)

JOEL KADARAUCH, Director, Alaska Beer, Wine, and Spirits Wholesalers Association urged passage of HB 357.

[5:28:37 PM](#)

LARRY HACKENMILLER, General Manager, CHARR Interior, spoke to tasting rooms. He stated the term is not defined in statute. He recounted the behavior of a tasting room which was found to be preparing mixed drinks. He said he also has a problem with the amount of beer and wine allowed in tasting rooms. He suggested decreasing the hours in which manufacturers can serve samples to 5 p.m.

[5:31:27 PM](#)

ROB BORLAND, Ursa Major Distilling, stated statute says that distilleries cannot be a de facto bar. He said there is no unfair advantage. He said distilleries have the same population limits as BDLs. He suggested the reason for the high cost of BDL licenses was due to the ability to transfer them.

[5:33:27 PM](#)

ERIC FORST, Partner, Red Dog Saloon, suggested that the tasting levels be cut back in the proposed bill. He said he supports the three-tier system.

[5:36:39 PM](#)

REPRESENTATIVE WOOL asked about the concern regarding the population limits and the cost of the BDL.

MR. FORST answered that if the licenses are limited, the value of each would go up.

[5:37:52 PM](#)

JACK MANNING, Owner, Duck Creek Market, said he is also the president of the local CHARR chapter. He spoke to the compromises during meetings. He said many feel the proposal greatly reduces the role of the ABC Board.

[5:39:05 PM](#)

RAY KAISER, Squirez Bar, said that he supports craft products but thinks they should be distributed through standard channels. He added he thinks sample sizes should be reevaluated.

[5:40:00 PM](#)

MARK ERICKSON, Owner, Lucky Lady Pub, spoke about the distilleries changing their approach. He mentioned the difference in cost for the BDL and other licenses.

[5:41:14 PM](#)

CHARLIE HERRINGTON, Juneau's Waterfront Restaurants, stated his concern regarding the revocation of licenses proposed in the legislation.

[5:42:18 PM](#)

REECIA WILSON, Owner, Hanger on the Wharf, Twisted Fish Company, spoke to the new requirement regarding UCC filing. She said language to clarify the intent is needed.

[5:44:45 PM](#)

PAUL THOMAS, Owner, Alaska Cache Liquor, spoke about the three-strike rule. He stated the ABC Board is designed to hear and decide on infractions. He voiced his concern that the proposal would condemn good businesses based on an arbitrary number. He said those decisions should be made by the Board. He spoke about the tasting rooms staying as originally conceived.

[5:47:34 PM](#)

TOM MANNING, Owner, Duck Creek Market, said he has owned a number of licenses and has served on the ABC Board. He declared support for the proposed bill. He said he does not agree with

the three-strike rule. He said the tasting room should be clearly defined.

[5:50:15 PM](#)

REPRESENTATIVE KNOPP asked whether Mr. Manning supports UCC filing.

MR. MANNING answered in the affirmative. He said that should stay.

REPRESENTATIVE WOOL asked whether Mr. Manning had any insight on the definition of a bar.

MR. MANNING said that he supported the craft manufacturers. He mentioned the local brewery. He said he thought the distilleries would be producing craft products. He said he thinks a pre-distilled product is more about flavoring and serving them in the same way as in a bar is no longer a tasting room.

[5:53:32 PM](#)

REPRESENTATIVE BIRCH asked Mr. Manning how room can be made for the manufacturing operations.

MR. MANNING answered he thinks Alaska Brewing Company is a great example of doing it right. He said, "You say it's about your product; make it about your product."

[5:56:09 PM](#)

LEANN THOMAS, Triangle Club, stated she encourages passage of SB 76. She spoke to tasting rooms and limits based on population. She said there should be limits on tasting room hours of operation. She said she thinks manufacturing should refer to the use of raw materials. She clarified that limiting tasting rooms by population for Juneau, Alaska, would mean there would be four tasting rooms. She suggested otherwise those entities could purchase BDLs like bars.

[6:00:38 PM](#)

REPRESENTATIVE WOOL corrected that there is currently no limit on the number of tasting rooms and a city like Juneau, Alaska, could have four breweries, four distilleries, and four wineries.

MS. THOMAS said she thinks an easy solution would be to make the limit 1:9,000 across all types.

[6:01:14 PM](#)

PETE THIBODEAU, Owner, Thibodeau's Market, Inc., said there are only so many customers out there and increasing the number of licenses does not make the "pot bigger."

[6:01:51 PM](#)

CHRIS MIEIER, Alaska Travel Adventures, testified in support of SB 76. He spoke to seasonal licenses limited by population at 20,000. Under SB 76, as is, Juneau would be excluded from the new class of tourism licenses. He added that currently the provision states hours from 1 p.m. to 11 p.m. and he would like to see it changed to include lunch hours.

[6:03:39 PM](#)

REPRESENTATIVE KNOPP asked whether Mr. Mieier anticipates a need for new seasonal tourism licenses.

MR. MIEIER said, "Absolutely."

[6:04:05 PM](#)

JARED CURE, The Narrows Bar, stated he has concerned about the three-strikes policy. He said the ABC Board is already set up to handle those cases. He stated he support UCC filings, without which he would not be in business. He suggested there be a limit to what tasting rooms can offer. He spoke to costs for manufacturers.

[6:06:46 PM](#)

BRANDON HOWARD, Owner/Founder, Amalga Distillery, commented that the committee has heard from a lot of BDL license holders. He described the process of his distillation and the use of Alaska grain from Delta Junction, Alaska. He explained how gin is made. He said claiming that Alaska distilleries are being deceitful worries him.

[6:13:42 PM](#)

REPRESENTATIVE BIRCH asked whether there are any limitations on bringing distillery products on cruise ships.

MR. HOWARD answered cruise ship passengers have to check any bottles that they purchase to take home.

[6:14:43 PM](#)

REPRESENTATIVE WOOL asked whether there are other distillers in Alaska making distilled products from raw materials.

MR. HOWARD explained the distillery processes.

REPRESENTATIVE WOOL asked whether there are distilleries that may have a more comprehensive license but only offer their product.

MR. HOWARD answered that he has seen the model, but not in Alaska. He said he has not seen a locale that features one singular product.

REPRESENTATIVE WOOL asked about the 80/20 rule.

MR. HOWARD answered his business had just began distribution in December 2017, and rolling out product in January 2018, since then about 66 percent of the product is shipped out. He said the 80/20 rule discourages smaller businesses.

[6:20:16 PM](#)

CHAIR KITO said he would take further testimony the following day.

[6:20:38 PM](#)

DIANE KAPLAN, President, CEO, Rasmussen Foundation, spoke to the issue of alcoholism in Alaska. She gave some statistics regarding alcohol abuse in the state. She said a clear framework for alcohol laws would strengthen public health and protect underage residents. She spoke to the lack of regulation on on-line sales.

[6:24:23 PM](#)

HEATHER SHADE, Port Chilkoot Distillery, shared her concern about the focus on restricting the manufacturing industry further through SB 76. She described the industry and current trends.

[6:31:01 PM](#)

ROBIN MINARD, Director, Public Affairs, Mat-Su Health Foundation, testified in support of SB 76. She stated local police emphasize that the number one problem is alcohol. She spoke to the years of work that had gone into the rewrite process.

[6:32:07 PM](#)

DICK ROSSTON, Alyeska Resort, testified in support of SB 76.

[6:33:22 PM](#)

ALISON KULAS, Executive Director, Advisory Board on Alcoholism and Drug Abuse, Alaska Mental Health Board, Statewide Suicide Prevention Council, Division of Behavioral Health, Department of Health and Social Services, asked the committee not to throw away all the work that has gone into clarifying the laws in Title 4. She said if the public understands the regulations, it will go a long way to improving public health.

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CHAIR KITO held over SB 76.

[6:35:35 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 6:35 p.m.