

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

May 4, 2018

3:17 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

MEMBERS ABSENT

Representative Colleen Sullivan-Leonard
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."

- MOVED HCS CSSB 86 (L&C) OUT OF COMMITTEE

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."

- MOVED HCS CSSSB 76 (L&C) OUT OF COMMITTEE

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
 05/02/18 (H) Heard & Held
 05/02/18 (H) MINUTE(L&C)
 05/04/18 (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) -- MEETING CANCELED --
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
05/02/18 (H) Heard & Held
05/02/18 (H) MINUTE (L&C)
05/03/18 (H) L&C AT 3:15 PM BARNES 124
05/03/18 (H) Heard & Held
05/03/18 (H) MINUTE (L&C)
05/04/18 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

SHAREN WALSH
Port of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 86.

TOM MEACHAM
Anchorage, Alaska

POSITION STATEMENT: Testified in the hearing on SB 86.

JOAQUIM BARBACHANO
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 86.

JACK BROWN
Anchorage, Alaska

POSITION STATEMENT: Testified in the hearing on SB 86.

SUSAN BROWN
Anchorage, Alaska

POSITION STATEMENT: Testified in the hearing on SB 86.

ROY LONGACRE
Anchorage, Alaska

POSITION STATEMENT: Testified in the hearing on SB 86.

JOHN KAGERER
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 86.

LAURA STIDOLPH, Staff
Representative Adam Wool
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the changes to SB 76 on behalf of Representative Wool.

DALE FOX

Alaska CHARR
Juneau, Alaska

POSITION STATEMENT: Answered questions in the hearing on SB 76.

REPRESENTATIVE CHUCK KOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Spoke to the House companion bill to SB 76 as prime sponsor.

ERIKA MCCONNELL, Director
Alcohol & Marijuana Control Office (AMCO)
Department of Commerce, Community & Economic Development (DCCED)
Anchorage, Alaska

POSITION STATEMENT: Answered questions in the hearing on SB 76.

ACTION NARRATIVE

[3:17:26 PM](#)

CHAIR SAM KITO called the House Labor and Commerce Standing Committee meeting to order at 3:17 p.m. Representatives Stutes, Birch, Josephson, Wool, and Kito were present at the call to order. Representative Knopp arrived as the meeting was in progress.

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

[3:18:02 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."

CHAIR KITO announced that public testimony on SB 86 was open from the previous hearing.

[3:18:12 PM](#)

SHAREN WALSH, Port of Alaska, testified in support of SB 86. She paraphrased from her written statement, which reads as follows [original punctuation provided]:

Port of Alaska is a publically-owned facility that handles half of all of Alaska's inbound, marine freight. Almost 3.5 million tons of fuel and cargo crossed Port of Alaska's docks in 2017. Half of the cargo that moves through the Port is delivered to final destinations outside of Anchorage and directly benefits some 85 percent of all Alaskans.

The Port originally opened in 1961 and its docks have long exceeded their original design life, they are suffering from severe corrosion, they are not well-suited for modern cargo-handling operations, and they are unlikely to survive another significant earthquake.

For these reasons, Port of Alaska is moving forward with a program replace its aging docks before they fail. This port modernization program is optimized to replace the docks in timely and cost effective manner while maintaining ongoing operations that benefit our entire state.

The first phase of this project involves land that is currently leased by the Port from the Alaska Railroad. Shore stabilization work is scheduled to start on this property this summer in preparation for construction of a new petroleum and cement terminal that is scheduled for completion in 2020.

It is not appropriate for the Port of Alaska, a publically-owned enterprise, to build a new dock on land that it does not control in perpetuity. Passage of SB86 will allow the land sale that will provide this control.

I appreciate your careful consideration and support of passing this bill, so that the Port can move forward with construction of new docks that will benefit all of Alaska.

[3:20:18 PM](#)

TOM MEACHAM spoke to the amendments to SB 86. He suggested a likely outcome in court would a determination that be Alaska Railroad Transfer Act (ARTA) does not require an exclusive use easement on lands that were not part of Denali National Park or native lands, which would mean the federal government would not

be defending the challenge regarding all lands received and deemed to be erroneous. He suggested the interests at the time of ARTA were the only interests involved. He said ARTA shows that exclusive use easement does not extend to lands that are already subject to the 1914 right-of-way.

[3:24:45 PM](#)

JOAQUIM BARBACHANO testified in support of SB 86. He mentioned the letter from Representative Don Young regarding the railroad easement. He opined the intent was not to take away land from landowners. He said he feels the proposed legislation is an "easy fix" for the problem.

[3:25:52 PM](#)

JACK BROWN spoke to a serious attack on property rights. He said Alaska Railroad Corporation (ARRC) changed the legal nature of the surface easement which runs across private property. He added the market value of his property had been gutted by claims of exclusive use by the railroad. He said the homestead patent is very clear about the right-of-way.

[3:28:37 PM](#)

SUSAN BROWN testified in the hearing on SB 86. She said the ARRC had illegally and unconstitutionally stolen land of Alaskans. She added that a few people in Anchorage, Alaska have just learned about the issue.

REPRESENTATIVE BIRCH asked Ms. Brown whether she was aware that the CS only states the ARRC does not have authority over interest which was not owned at the time of transfer.

MS. BROWN answered that she was fully aware of that.

[3:30:52 PM](#)

ROY LONGACRE testified in the hearing on SB 86. He said he agreed with earlier testimony from Mr. Tom Meacham. He queried why the ARRC had different needs under state control than it had under federal control. He said that in order to cut down trees on private property, the ARRC required it be hired to manage the operation.

[3:34:45 PM](#)

JOHN KAGERER testified in support of SB 86. He stated he had just been notified that the railroad had been granted use of his property. He said he had had no prior knowledge and that he believes it is totally wrong. He stated the easement should be returned to the way it was before.

[3:36:42 PM](#)

CHAIR KITO closed public testimony on SB 86.

REPRESENTATIVE JOSEPHSON shared his concerns about the proposed bill. He stated he feels the decision should go before the courts. He spoke to the legal opinion on the proposal.

REPRESENTATIVE BIRCH commented that the issue was complicated. He underlined that ARRC is a state enterprise. He said that under the state and federal law, it is not the responsibility of the property owners to address the issue. He mentioned ARTA.

CHAIR KITO said he would characterize the responsibilities differently. He highlighted that the shareholders are residents of Alaska and the legislature does have a responsibility to protect them. He then spoke to the partnerships with the Port of Anchorage, Alaska.

[3:46:34 PM](#)

REPRESENTATIVE WOOL moved to report CSSB 86(FIN) AM out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

[3:46:51 PM](#)

The committee took an at-ease from 3:47 p.m. to 3:50 p.m.

SB 76-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[3:50:34 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."

[3:51:00 PM](#)

REPRESENTATIVE WOOL moved to adopt HCS for CSSSSB 76(FIN) as the working document.

CHAIR KITO objected for discussion.

[3:51:35 PM](#)

LAURA STIDOLPH, Staff, Representative Adam Wool, Alaska State Legislature, explained the changes in Version S [included in members' packets], which reads as follows [original punctuation provided]:

- Sec 04.09.330, Page 23, line 28 Distillery retail license. Adds: "The holder of a distillery retail license may combine the holder's distilled spirits under this subsection with other ingredients that are not alcoholic beverages, including mixers, liquids, and garnishes."
- Sec 04.09.350, Page 26, line 4 Seasonal Restaurant or eating place tourism license Changes population requirements from "20,000 or less" to "40,000 or less".
- Sec 04.09.350, Page 26, line 27 Seasonal Restaurant or eating place tourism license & 04.09.210(d) Page 12, line 30 Restaurant or eating place license modify allowable hours for providing entertainment from 3 PM to 11 AM.
- Sec 04.09.410, Page 30, lines 20-22 Manufacturer sampling endorsement, add "; the holder of the distillery manufacturer license may combine the holder's distilled spirits under this paragraph with other ingredients that are not alcoholic beverages, including mixers, liquids, and garnishes."
- AS 04.09.490, Page 39, lines 14-20 Package store sampling endorsement
The holder of a package store sampling endorsement may serve a total volume of samples that does not exceed [12] 6 oz of beer or cider, if the cider contains 8.5% alcohol by volume; [6] 3 oz of wine, mead, sake, or cider, if the cider

contains 8.5% or more alcohol by volume; or [1.5] .75 oz of distilled spirits.

- AS 04.11.170, Page 52, lines 20-25 Distillery license New sections added to read:
 - (f) The holder of a distillery license may combine the distiller's product under (d) and (e) of this section with other ingredients, including mixers, liquids, or garnishes, that are not alcoholic beverages.
 - (g) In this section, "distillery's product" means an alcoholic beverage distilled on the licensed premises.
- AS 04.11.400(a), Page 66, lines 2-3, Distillery license
Add "one" before "winery retail", remove "or" add "and one" before "distillery retail license for each 9,000 population or fraction of that population".
- AS 04.11.670, Page 78, lines 24-31, Page 79 lines 1-3, Foreclosure
Allows license issued under this title is to be subject to foreclosure and be used as collateral to secure a debt if the license is transferred to another person, and the transferor secures payment for real and personal property conveyed to the transferee upon the promise of the transferee to transfer the license back to the transferor upon default in payment.
- AS 04.16.180(b), Page 93, lines 6-7, Revocation of a license
Eliminates the requirement of license revocation for certain violations, and reverts to earlier language: "on third conviction, the license of the premises involved may be suspended or revoked."

[3:55:24 PM](#)

The committee took an at-ease from 3:55 p.m. to 3:59 p.m.

[3:59:26 PM](#)

REPRESENTATIVE BIRCH had a query regarding manufacture retail licenses which may fall outside the population limit.

ERIKA MCCONNELL, Director, AMCO, replied in the affirmative.

4:00:24 PM

REPRESENTATIVE STUTES asked where it states in Title 4 that a beverage dispensary license (BDL) cannot have anyone in the establishment after closing time.

4:01:08 PM

DALE FOX, Alaska CHARR, answered that under AS 4.16.0.10(c):

A licensee, an agent, or employee may not permit a person to enter and a person may not enter premises licensed under this title between the hours of 5:00 a.m. and 8:00 a.m. each day. This subsection does not apply to common carriers or to an employee of the licensee who is on the premises to prepare for the next day's business. A person may enter or remain on the premises of a bona fide restaurant or eating place licensed under this title to consume food or nonalcoholic beverages.

MR. FOX added that under (d):

A municipality may provide for additional hours of closure under AS 04.21.010.

REPRESENTATIVE STUTES asked whether the rewrite addresses closing hours.

MR. FOX answered it does not.

REPRESENTATIVE STUTES asked why not.

MR. FOX answered that he thinks it was an oversight.

CHAIR KITO clarified that hours are 5 a.m. to 8 a.m. unless the person is working, delivering, or contracting.

REPRESENTATIVE KNOPP asked whether there were afterhours parties allowed on premises.

REPRESENTATIVE STUTES remarked that with BDLs, closing hours means everyone off premises. She asked whether distilleries and breweries had to adhere to this.

CHAIR KITO clarified that the rewrite leaves language in place for existing entities. He added they would have to adhere to what local ordinances require.

REPRESENTATIVE STUTES asked whether the statute requires everyone off premise as well.

MS. MCCONNELL answered that the language states businesses may not serve brewed beverages between 8 p.m. and 5 a.m.

REPRESENTATIVE WOOL underlined that state law states no patrons may be on premises between 5 a.m. and 8 a.m. He said he did not know whether local ordinance addresses the same hours.

MS. MCCONNELL assumed it meant the business would have to adhere to the local ordinance.

[4:08:28 PM](#)

MS. MCCONNELL answered there is a situation in which food is served meaning patrons can remain on premises to finish their meal.

REPRESENTATIVE WOOL said the state says that after 5 p.m. whereas the local ordinance can say that businesses have to close their doors but don't have to kick everyone out.

MS MCCONNELL shared her belief that the municipality of Anchorage, Alaska, has a local ordinance stating that businesses can decide whether everyone has to leave or to stop serving alcohol.

[4:10:06 PM](#)

CHAIR KITO removed his objection to adopting CS Version S. There being no objection, it was so ordered.

[4:10:21 PM](#)

REPRESENTATIVE STUTES moved to adopt Amendment 1, labeled 30-LS0015\S.3, Bruce, 5/4/18, which read as follows:

Page 21, line 19:
Delete "36"
Insert "24"

Page 21, line 20:

Delete "18"
Insert "12"

Page 22, line 19:
Delete "18"
Insert "12"

Page 22, line 21:
Delete "36"
Insert "24"

Page 23, line 26:
Delete "three"
Insert "two"

REPRESENTATIVE STUTES spoke to Amendment 1. She stated it would specifically reduce allowable amounts by one third to 24 oz. She said she thinks reducing samples by one third is a fair compromise. She noted the bill sponsor is not opposed.

REPRESENTATIVE BIRCH expressed he was not comfortable with the amendment because he does not know where the initial numbers came from.

REPRESENTATIVE WOOL responded that the issue had come up when a bill was pass in 2014. He spoke to the industry standard and said that every state except Oklahoma has tasting rooms. He stated the samples range from 2.5 oz to 3.25 oz and Alaska allows 3 oz.

CHAIR KITO suggested Representative Wool was speaking about distilled spirits specifically.

REPRESENTATIVE WOOL answered in the affirmative.

REPRESENTATIVE KNOPP said he thinks it is a great compromise.

[4:15:21 PM](#)

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

[4:16:02 PM](#)

REPRESENTATIVE CHUCK KOPP, Alaska State Legislature, spoke to the work that had been done in creating the legislation. He stated the bill sponsor had no opposition to Amendment 1. He said that all things considered, it would not harm the bill.

[4:17:15 PM](#)

CHAIR KITO removed his objection. There being no further objection, Amendment 1 was adopted.

CHAIR KITO mentioned a concern he had with sporting events and theater alcohol consumption.

[4:18:46 PM](#)

The committee took an at-ease from 4:18 p.m. to 4:26 p.m.

[4:26:35 PM](#)

CHAIR KITO stated he had spoken with Senator Micciche, prime sponsor, who had expressed he did have concerns about reducing volumes. He said the sponsor had agreed about reducing samples in package stores.

REPRESENTATIVE STUTES indicated she had previously spoken with the sponsor of HB 357, Representative Kopp, who had presented no objection.

[4:27:38 PM](#)

REPRESENTATIVE BIRCH moved to call for the question

[4:28:07 PM](#)

REPRESENTATIVE JOSEPHSON stated he did not feel there was a need for that.

CHAIR KITO said it was unfortunate that bill had taken so long to get to the current point. He stated he appreciated the amount of work that had gone into the legislation. He added he thought it was "in decent shape" to move forward.

REPRESENTATIVE WOOL commented there had been public testimony but not much analysis within the committee. He said he understood the "time crunch" the committee was under. He spoke to changes in the bill versions.

REPRESENTATIVE BIRCH encouraged the committee to move the bill forward.

[4:34:40 PM](#)

CHAIR KITO remarked that work in committee can seem like a "teeter-totter" but that he was interested in moving the bill forward.

4:35:39 PM

CHAIR KITO moved to report SB 76 out of committee as amended with individual recommendations and the accompanying fiscal notes. There being no objection, it was so ordered.

4:36:52 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:36 p.m.