

SENATE FINANCE COMMITTEE

March 13, 2017

9:03 a.m.

9:03:23 AM

CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 9:03 a.m.

MEMBERS PRESENT

Senator Lyman Hoffman, Co-Chair
Senator Anna MacKinnon, Co-Chair
Senator Click Bishop, Vice-Chair
Senator Mike Dunleavy
Senator Peter Micciche
Senator Donny Olson
Senator Natasha von Imhof

MEMBERS ABSENT

None

ALSO PRESENT

Rachel Hanke, Staff, Senator Peter Micciche; Dr. Jay Butler, Chief Medical Officer, Department of Health and Social Services; Sara Chambers, Acting Director, Alaska Alcohol and Marijuana Control Office, Juneau.

PRESENT VIA TELECONFERENCE

Emily Nenon, Government Relations, American Cancer Society and Cancer Action Network, Anchorage; Alyssa Keill, Self, Fairbanks; Johna Beech, Self, Kenai; Bob Urata, American Heart Association Volunteer, Juneau; Chrystal Schoenrock, Kenai Peninsula Cabaret, Hotel, and Restaurant Retailers (CHARR), 4-Lands Bar, Nikiski; Mary Sears, Self, MatSu; John Sloan, Self, Delta Junction; Gail Schiemann, Self, Anchorage; Amanda Lenhard, Self, Anchorage; Dick Block, Association of Alaska Multi-Family Business Owners, Anchorage; Katie Steffens, Self, Anchorage; Angela Cernich, Self, Anchorage; Carmen Lunde, Kodiak CHARR, Kodiak; Betty MacTavish, American Lung Association of Alaska/ASCAN, Kodiak; Pamela Howard, School Nurse, Soldotna; Wayne

Crowson, Self, Delta Junction; Nikki Lee, Mug Shot Saloon, MatSu; Michele Shapiro, MatSu CHARR, MatSu; Jennifer Brandt, Self, Wasilla; Daniel Lynch, Self, Soldotna; Larry Hackenmiller, Self, Fairbanks; Dick Ellsworth, Self, Fairbanks; Dean Gustafson, Self, Fairbanks; Pete Hanson, Alaska CHARR, Anchorage; Mabel Wimmer, Business Owner, Glenallen; Alex McDonald, Self, Fairbanks; Steven Mapes, Smoke Free Alternative Trade Association, Kenai; David Nees, Self, Anchorage; Terri Crowson, Self, Delta Junction.

SUMMARY

SB 63 REGULATION OF SMOKING

SB 63 was HEARD and HELD in committee for further consideration.

#sb63

SENATE BILL NO. 63

"An Act prohibiting smoking in certain places; relating to education on the smoking prohibition; and providing for an effective date."

9:03:58 AM

Senator Micciche, sponsor, discussed the bill. He recalled that the bill had passed the Senate twice the previous year. He informed that more people in Alaska died annually from the effects of tobacco than from suicide, motor vehicle accidents, homicide, and chronic liver diseases combined. He asserted that due to his political persuasion, he considered concepts by whether they passed the test of freedom and liberty, as well as by the responsibility of protecting public safety and health. He believed the fundamental right to breathe smoke-free air in the workplace compelled the legislature to protect Alaska's labor force.

Senator Micciche read excerpts from the sponsor statement (copy on file):

The financial burden of caring for those that fall victim to tobacco-related illness due to secondhand smoke costs the State of Alaska tens of millions of dollars annually.

Current law prohibits smoking in the workplace in many areas of the state including healthcare facilities, schools, childcare facilities and public meeting rooms in government buildings. Over one half of the population of Alaska including those in Bethel, Anchorage, Juneau, Barrow, Dillingham, Haines, Skagway, Petersburg, Klawock, Nome, Unalaska, and Palmer are currently living under smoke-free laws similar to SB 63. These laws are well established and strongly supported by citizens and businesses. For Alaskans residing in the remaining areas of the state, this bill will offer a uniformly applied smoke-free workplace policy.

SB 63 does not prohibit outdoor smoking, except near building entrances/exits, air intakes, and other specifically-designated public gathering places. The bill does not legislate the employment of smokers or non-smokers. Local governments with adequate jurisdiction will retain the authority to adopt more restrictive local provisions than the statewide law.

[9:06:10 AM](#)

RACHEL HANKE, STAFF, SENATOR PETER MICCICHE, discussed the Sectional Analysis for the bill (copy on file):

Section 1

Provides a statement of legislative intent which is that nothing in this Act will waive the state's immunity from liability provided for in state law, nor to alter applicable law relating to possible liability of manufacturers, dispensers, or others as a result of smoking or using tobacco or e-cigarettes within an enclosed area.

Section 2

Adds a new article to AS 18.35 that

- AS 18.35.301 - prohibits smoking in certain places, including specified enclosed areas and at or near specified outdoor areas;
- provides limited exceptions to the smoking prohibitions for retail tobacco and e-cigarette stores, for enclosed, marked, and vented transit areas, for private residences, for specified vehicles and vessels, for stand-alone shelters and for licensed marijuana establishments;

- AS 18.35.306 - requires notices of smoking prohibitions and fines;
- AS 18.35.311 - prohibits employers and building owners or managers from permitting smoking or supplying smoking accessories in place where it is prohibited;
- AS 18.35.316-35.321 - requires the commissioner of health and social services or the commissioner's designee to administer and enforce the requirements under the Act and to provide public education about the requirements;
- AS 18.35.326 - prohibits an employer, or owner or operator of a vehicle from retaliating for initiating or cooperating with enforcement of the Act;
- AS 18.35.331 - allows a municipality to impose additional smoking restrictions and duties;

Ms. Hanke continued discussing the sectional analysis for SB 63:

Sections 3 - 4

AS 18.35.340(a) & (b) - amends cross-references to conform to the new and repealed provisions.

Section 5

AS 18.35.340(c) - amends cross-references and provides new fines for violations in which the commissioner has filed a civil complaint.

Section 6-7

AS 18.35.341(a) & (b) - amends cross-references to conform to the new and repealed provisions.

Section 5

AS 18.35.340(c) - amends cross-references and provides new fines for violations in which the commissioner has filed a civil complaint.

Section 6-7

AS 18.35.341(a) & (b) - amends cross-references to conform to the new and repealed provisions.

Senator.Peter.Micciche@akleg.gov

Section 8

AS 18.35.341(c) - amends cross-references and provides individuals found guilty of a violation as defined in Title 11 are subject to new fines.

Section 9-12

AS 18.35.341(d), 35.342, 35.343 & 35.350 - Amend cross-references to conform to the new and repealed provisions.

Section 13

AS 18.35.399 - Defines terms used in the Act.

Section 14

Repeals specified provisions related to smoking in AS 18.35.

Section 15

Uncodified law - specifies that the changes made by secs. 2 - 13 of the Act apply to violations or compliance failures that occur on or after the effective date of secs. 2 - 13 of the Act.

Section 16

Uncodified law - authorizes the Department of Health and Social Services to adopt necessary regulations to implement the Act. The Regulations may not take effect before the effective date of the relevant provision being implemented.

Section 17

Provides for an immediate effective date for sec. 16.

Section 18

Provides for an October 1, 2017 effective date for the remainder of the Act.

Senator Micciche noted that the bill was purposefully designed to be light-handed and with light fines. He informed that similar laws in effect in Anchorage had produced almost no violations. He had researched that the law would not negatively impact businesses. He stated that the difference in the bill from the version from the previous year was a couple of changed items that the sponsor felt had not fallen into the category of specifically protecting Alaskan employees.

[9:10:41 AM](#)

DR. JAY BUTLER, CHIEF MEDICAL OFFICER, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, relayed that his perspective and comments on the bill were in the context of a physician and public health professional. He relayed that he was a former tobacco user. He asserted that secondhand smoke had been linked to several health disorders; including cardiovascular disease, lung cancer, asthma, and middle-ear infections.

Dr. Butler focused his remarks on cardiovascular disease as the short-term impact of secondhand smoke. He discussed research that linked smoke exposure to heart-attack risk, which was evidenced-based in multiple scientific studies. He referred to studies that showed the epidemiological link between smoke exposure and heart-attack risk. He relayed that smoke exposure lead to stickiness of the blood's platelets in the walls of the vessels of the heart. In areas where smoking had been taken out of doors, it was found that there was a decrease in incident of heart attacks. On average the decline in heart attacks was 17 percent, and the declines were greater among women and younger people. He estimated that if Alaska could achieve the same level of decline in the heart-attack rate, the health care system in the state could save almost \$4 million in costs, and the Alaska Medicaid program could avert over \$500,000 in direct medical costs.

[9:13:44 AM](#)

Dr. Butler continued discussing the bill. He spoke to promoting personal responsibility, which was central to the mission of his department. He thought encouraging people to think about reducing exposure to people around them fit with the department's work.

Senator Olson considered that the bill was good for the health of the state and asked why it had not already passed into law.

Dr. Butler thought Senator Olson's question was more political than medical, and was unsure he could answer beyond speculation. He thought there were interests that wanted to encourage free usage of tobacco. There were data that suggested that when there were restrictions on where tobacco could be used, overall usage and the uptake of tobacco products by youth were shown to decline.

Senator Olson asked why the Department of Health and Social Services (DHSS) had not pushed for more stringent smoking laws in the past 50 years, since it was known that there was a strong link between smoking and health issues.

Dr. Butler had worked in his current position as Chief Medical Officer approximately 27 months, and had been involved with the bill starting with SB 1 the previous session. He was not familiar enough with the history of the department to be able to comment on why action had not been taken sooner. He thought that emerging science and support of the United States (U.S.) Surgeon General was partly to attribute for the current action on the issue.

[9:16:29 AM](#)

EMILY NENON, GOVERNMENT RELATIONS, AMERICAN CANCER SOCIETY AND CANCER ACTION NETWORK, ANCHORAGE (via teleconference), testified in support of the bill. She explained that in 1998, Bethel had been the first community in Alaska to pass a local smoke-free workplace law. She noted that since 1998, many places around the state (such as Barrow, Juneau, Anchorage, Unalaska, Nome, Palmer, and Dillingham) had passed similar laws. She thought about half the state's population was covered by local smoke-free workplace laws. She thought many places in the state did not have the local health powers necessary to pass such a law, which necessitated a statewide law to ensure all workers were protected from secondhand smoke in the workplace.

Ms. Nenon continued to testify on the bill. She concurred with the previous testifier that the science behind the effects of smoking had gotten stronger. She referenced a 2006 report by the U.S. Surgeon General that established that no amount of secondhand smoke was safe for humans, and that ventilation systems were not adequate to protect health. In 2006, electronic cigarettes hit the market in the U.S. There was not a body of research on the effects of electronic cigarettes, but there was significant cause for concern with health impacts.

Ms. Nenon noted that there was strong support for the legislation around the state, that had only grown over the past few years. She referenced polling numbers that were included in the bill packet. She emphasized that everyone had a right to breathe smoke-free air.

9:20:10 AM

Co-Chair MacKinnon OPENED public testimony.

ALYSSA KEILL, SELF, FAIRBANKS (via teleconference), testified in support of the bill. She thought limiting public exposure to secondhand smoke was in the best interest of the state based on cost. She discussed healthcare costs, and the economic burden of paying for individuals suffering from tobacco-related illnesses. She discussed the consequences of breathing secondhand smoke. She did not believe smoking was a right.

9:22:45 AM

JOHNA BEECH, SELF, KENAI (via teleconference), testified in support of the bill. She thanked the sponsor. She lived in a borough that did not have health powers. She mentioned those youth entering the workforce, and individuals hindered by secondhand smoke.

9:24:15 AM

BOB URATA, AMERICAN HEART ASSOCIATION VOLUNTEER, JUNEAU (via teleconference), spoke in support of the bill. He relayed that he was a family physician. He noted that cigarette smoking continued to be the leading cause of preventable death and disease in the U.S. and Alaska. He referenced the U.S. Surgeon General's comments on the dangers of secondhand smoke on vascular function. He discussed the expense of smoking in lost productivity, and possible savings to Medicaid. He referenced research that showed decline in heart attacks after implementation of smoke-free workplaces. He thought electronic cigarettes and should be included in any restrictions. He urged the committee to support the bill.

9:26:27 AM

CHRYSTAL SCHOENROCK, KENAI PENINSULA CABARET, HOTEL, AND RESTAURANT RETAILERS (CHARR), 4-LANDS BAR, NIKISKI (via teleconference), testified in opposition to the bill. She thought business owners and patrons should have a choice on the issue of smoking. She asserted that there was a sufficient number of non-smoking establishments. She shared concerns about the potential impact to her business. She

referenced a decline in business and the prospect of increased taxes. She emphasized freedom of choice for smokers.

[9:28:29 AM](#)

MARY SEARS, SELF, MATSU (via teleconference), testified in support of the bill. She thought it was possible to make a difference in the lives of people who were forced to experience secondhand smoke. She relayed that she was a retired correctional officer, and had worked around secondhand smoke for many years. She discussed her experience with secondhand smoke and the resultant negative effects. She experienced cancer and lung scarring.

[9:29:34 AM](#)

JOHN SLOAN, SELF, DELTA JUNCTION (via teleconference), spoke in support of the bill. He asserted that the legislation had no cost, and did not understand the opposition to the bill. He recalled smoking occurring in public places. He wanted to make Alaska a safe and healthy place that people would want to come to for work and play.

[9:30:57 AM](#)

GAIL SCHIEMANN, SELF, ANCHORAGE (via teleconference), spoke in support of the bill. She had worked in the hospitality industry for over 20 years before any secondhand smoke protections were put into place. She was a non-smoker. She experienced Chronic Obstructive Pulmonary Disease (COPD) and relied on oxygen to perform normal household tasks.

[9:31:53 AM](#)

AMANDA LENHARD, SELF, ANCHORAGE (via teleconference), testified in support of the bill. She enjoyed living in a community with smoke-free restaurants. She discussed the effects of secondhand smoke on children.

[9:32:34 AM](#)

DICK BLOCK, ASSOCIATION OF ALASKA MULTI-FAMILY BUSINESS OWNERS, ANCHORAGE (via teleconference), testified on the bill. He was not in opposition to the bill, but had a concern. He relayed that his company was in property management. He was concerned about how a regulatory agency

might enforce the bill. He believed that there had been some unfortunate drafting of language that was in statute. He thought it was unclear as to who was responsible if an individual was smoking on one of his properties. He wanted to preclude responsibility by the property owner. He had visited and discussed the matter with staff to the sponsor. He believed that owners and operators of multi-family-owned buildings were in a different position than owners of other establishments. He was concerned that an apartment building owner was never on the property, and could not monitor smoking activity beyond putting up signage. He was supportive of putting anti-smoking language in a lease.

[9:35:58 AM](#)

KATIE STEFFENS, SELF, ANCHORAGE (via teleconference), testified in support of the bill. She discussed experiencing secondhand smoke in restaurants. She shared concerns about the effects of secondhand smoke on children. She urged the committee to pass the bill.

[9:37:04 AM](#)

ANGELA CERNICH, SELF, ANCHORAGE (via teleconference), spoke in support of the bill. She discussed her personal experience with secondhand smoke. She had experienced medical problems including COPD as a result of secondhand smoke.

[9:39:08 AM](#)

CARMEN LUNDE, KODIAK CHARR, KODIAK (via teleconference), testified in opposition to the bill. She believed business owners had the right to make choices without government mandates. She discussed the compromise that had taken place in Kodiak; where 75 percent of the bars were designated as non-smoking, and the remaining 25 percent allowed smoking inside. She discussed the weather and thought people should not be forced to smoke outside. She quoted Abraham Lincoln.

[9:40:54 AM](#)

BETTY MACTAVISH, AMERICAN LUNG ASSOCIATION OF ALASKA/ASCAN, KODIAK (via teleconference), spoke in support of the bill. She stated that the Kodiak Island Borough had health powers but had chosen to sign a resolution of support for the bill instead of passing a local smoke-free ordinance. She

clarified that there had never been a vote on a smoke-free ordinance in the borough. She spoke of her personal experience with the ill effects of secondhand smoke. She discussed her work with youth who smoked. She urged the committee to pass the bill and protect Alaskan workers.

[9:42:53 AM](#)

PAMELA HOWARD, SCHOOL NURSE, SOLDOTNA (via teleconference), testified in support of the bill. She thanked the sponsor, and thanked the committee for its work. She discussed her personal experience with asthma. She referred to Senator Olson's question about why the law had not been put into place earlier. She referred to other states that had passed similar laws, and commented on marketing and lobbying spending by tobacco companies.

[9:45:11 AM](#)

WAYNE CROWSON, SELF, DELTA JUNCTION (via teleconference), testified in support of the bill. He shared that his brother had died of lung cancer after being exposed to secondhand smoke. He discussed the ill effects of secondhand smoke.

[9:45:53 AM](#)

NIKKI LEE, MUG SHOT SALOON, MATSU (via teleconference), spoke in opposition to the bill. She felt a business should have the right to determine whether it allowed smoking or not.

[9:46:39 AM](#)

MICHELE SHAPIRO, MATSU CHARR, MATSU (via teleconference), testified in opposition to the bill. She was speaking on behalf of CHARR members in the Mat-Su Valley. She relayed that there were businesses in her area that had chosen not to allow smoking in the establishment. She thought the decision as to whether to allow smoking should be left to the business owners. She relayed that the community of Nome had gone smoke-free, and remarked on the groups of individuals smoking outside near the general public.

[9:48:48 AM](#)

JENNIFER BRANDT, SELF, WASILLA (via teleconference), spoke in support to the bill. She shared her personal experience with the detriments of secondhand smoke in the workplace.

[9:49:46 AM](#)

DANIEL LYNCH, SELF, SOLDOTNA (via teleconference), testified in opposition to the bill. He supported freedom of choice for property and business owners as it pertained to free market economics. He supported local control and local option, as was used with alcohol and cannabis use. He discussed the cost of local enforcement. He wondered why there should be another law that would not be enforced. He asserted that the state received an average of \$70 million from tobacco taxes. He suggested that the bill would cause lost revenue. He thought there were other professions that deserved scrutiny for unsafe conditions, such as drive-throughs and the construction industry. He thought there should be a bill to prevent cell phone use on public roads. He thought there should be a study to determine the difference in health between Bethel and the Kenai Peninsula.

[9:52:07 AM](#)

LARRY HACKENMILLER, SELF, FAIRBANKS (via teleconference), spoke in opposition to the bill. He discussed the unregulated use of propane and natural gas stoves in homes. He discussed scientific standards employed by the Environmental Protection Agency. He did not think smoking should be subject to governmental control. He thought there was a safe level of secondhand smoke exposure. He thought there had been a misrepresentation of science. He questioned the assertion that secondhand smoke was lethal.

[9:54:36 AM](#)

DICK ELLSWORTH, SELF, FAIRBANKS (via teleconference), testified in opposition to the bill. He agreed with the previous speaker. He discussed his roadhouse in which there was an air-exchange system. He discussed his business. He shared concerns about a loss of jobs as a result of the bill. He discussed tobacco tax revenue. He discussed enforcement, and thought the issue had been addressed on a local level.

[9:56:53 AM](#)

DEAN GUSTAFSON, SELF, FAIRBANKS (via teleconference), spoke in support of the bill. He relayed that he was a former United States Marine, and graduate student in public health at the University of Alaska Anchorage. He thanked the bill sponsor. He referred to earlier testimony regarding the health and economic benefits of the bill. He thought that it was important to note that the bill did not prevent smoking, but rather pertained to the location in which individuals could smoke. He had worked in an establishment with smoking, but had the education to leave the venue. He made the point that the Occupational Safety and Health Administration and other entities already regulated businesses. He thought that indoor smoking was a public health issue.

[9:59:07 AM](#)

PETE HANSON, ALASKA CHARR, ANCHORAGE (via teleconference), testified in opposition to the bill. He stated that local governments in the state had been moving towards non-smoking. He suggested that 90 percent of Alaskans lived in areas where local governments had the authority to regulate smoking. He stated that many communities had chosen to limit smoking, and many had chosen to continue smoking in some workplaces. He thought there were many choices for individuals who wished to visit a non-smoking bar, even in communities that had not chosen to ban smoking in bars. He thought there were many choices for bartenders who wanted to work in a non-smoking bar. He pointed out that some workplaces that currently allowed smoking would lose jobs if indoor smoking was banned. He thought the market was doing a good job of moving the industry toward non-smoking. He thought the issue would work itself out, if given time.

[10:01:40 AM](#)

MABEL WIMMER, BUSINESS OWNER, GLENALLEN (via teleconference), spoke in support of the bill. She relayed that she was a restaurant and bar owner, and her business had been smoke-free for 15 years. She had not had any business problems. She discussed her adverse personal experience working around secondhand smoke. She pointed out that she was a member of CHARR, and asserted not all CHARR members wanted smoking in bars. She did not want to expose her patrons or employees to something that could cause them

harm. She discussed individuals who suffered from cancer and COPD after exposure to smoke.

[10:03:53 AM](#)

ALEX MCDONALD, SELF, FAIRBANKS (via teleconference), testified in opposition to the bill. He was a business owner. He stated that he joined in the effort to try and reduce tobacco use and related illnesses in the state. He referred to his past testimony on previous versions of the bill. He objected to the inclusion of vapor products in the bill, which he thought was contrary to policy suggestions from experts and organizations around the world. He mentioned the unintended consequence of forcing vapor product users to be in proximity to smokers. He alleged that to comply with the bill, he would have to purchase and install a ventilation system costing between \$30,000 and \$50,000. He discussed potential changes he would need to make to his business as a result of the bill. He restated that he was in support of increased health and safe jobs for Alaskans. He thought removing the vapor language from the bill would increase support and save jobs. He wanted to keep smokeless technology available to individuals trying to quit smoking.

Co-Chair MacKinnon noted that the committee had received Mr. McDonald's testimony in its entirety via email.

[10:06:48 AM](#)

STEVEN MAPES, SMOKE FREE ALTERNATIVE TRADE ASSOCIATION, KENAI (via teleconference), testified in opposition to the bill. He shared concerns about the inclusion of vaping and electronic cigarettes (e-cigarettes) in the bill. He asserted that there were hundreds of scientific studies conducted over the last few years proving that vapor and tobacco smoke were not the same thing. He thought the Occupational Safety and Health Administration considered e-cigarette vapor to be safe. He discussed a requirement for air scrubbers and exterior doors, which he thought would force some stores to close and prevent new stores from opening. He stated that his shop had helped 304 individuals cease use of cigarettes and chewing tobacco in the previous 14 months. He thought the bill would result in the loss of jobs.

[10:09:06 AM](#)

DAVID NEES, SELF, ANCHORAGE (via teleconference), spoke against the legislation. He shared concerns about the inclusion of vaping products in the bill. He thought that there should be nicotine testing for children using public health assistance. He discussed the use of vaping as it related to smoking cessation. He thought that anything that prohibited the use of vaping products would cause an increase in smoking. He thought the committee should consider data pertaining to the costs associated with children being exposed to secondhand smoke at home.

10:12:25 AM

Co-Chair MacKinnon CLOSED public testimony. She shared that there was departmental staff available to answer questions about the bill.

Senator Dunleavy had questions for the sponsor. He referred to testimony and emails pertaining to vaping language in the bill. He asked Senator Micciche for clarification.

Senator Micciche referenced page 3 of the bill, starting on line 10:

(d) Notwithstanding (a) of this section, unless the owner or operator prohibits it, smoking is allowed at a retail tobacco or e-cigarette store that

(1) is in a building that

(A) is freestanding; or

(B) if it is attached to another business,

(i) has a separate entrance;

(ii) has a ventilation system vented to an area where smoking is not prohibited;

(iii) the other business does not serve as a residence, child care facility, school, or health care facility; and

(iv) smoking is limited to the use of an e-cigarette;

(2) is not

(A) a business that is licensed under AS 04.11 to serve alcoholic beverages at an outdoor location;

(B) a business that is licensed under AS 05.15 to sell pull-tabs; or

(C) a retail store that is within an indoor public place or workplace.

Senator Micciche stated that the bill separated vaping from tobacco stores; whereas the previous version of bill only allowed free-standing tobacco stores, and for no attached tobacco stores to allow smoking indoors. The current bill allowed for attached vape shops to continue smoking within the building. He asserted that he understood what the stakeholders were saying in reference to the vaping language, and believed their intentions were pure. He communicated that employees should not be forced the breath exhaled vapors. He continued that the bill treated vaping establishments differently, as smoking was not allowed in any place of business.

Senator Dunleavy referred to testimony that questioned the purpose of a law that would not be enforced. He asked the sponsor to comment.

Senator Micciche referred to the law in Anchorage, where he recalled that three citations had been written in the 7 to 8 years the law had been in effect. He stated that enforcement of the law was complaint-driven. The bill did not provide for law enforcement to patrol establishments to see if smoking occurred. He thought that evidence from Anchorage showed that a light hand had been effective; and if there was smoking happening in areas where there were no complaints, there would be no enforcement action.

Senator Dunleavy asked if a state violation could potentially be in addition to a local violation.

Senator Micciche deferred the question to the Acting Director for the Alaska Alcohol and Marijuana Control Office.

[10:17:13 AM](#)

SARA CHAMBERS, ACTING DIRECTOR, ALASKA ALCOHOL AND MARIJUANA CONTROL OFFICE, JUNEAU, interpreted that if the violation was only about state law, there was a restriction to one violation. She thought there could be additional violations relating to other topics (such as smoking marijuana in a non-designated location) which could be incurred by the act of smoking.

Co-Chair MacKinnon asked Senator Micciche to follow up with the Department of Law and local government to get additional information on the subject.

Senator Dunleavy relayed that his constituents had questioned having a statewide position of law rather than giving municipalities health powers.

Ms. Chambers did not feel the question fell within her jurisdiction.

Senator Micciche understood that Title 29 did not allow health powers. He felt strongly about the impacts of exposures to Alaskan employees that he chose to sponsor the bill as written. He thought that if there was a way to amend Title 29, the same end could be accomplished.

Senator Dunleavy asked about the workplace exemptions in the bill, such as fishing vessels. He asked about a hypothetical home business in a stand-alone building in which the owners smoked.

Senator Micciche deferred the question to staff.

Senator Dunleavy repeated the question.

[10:22:11 AM](#)

AT EASE

[10:23:17 AM](#)

RECONVENED

Senator Dunleavy understood that Senator Micciche would get back to the committee with an answer to the question.

Senator Dunleavy asked if there were any exceptions in the bill to a workplace in which all workers smoked.

Senator Micciche answered in the negative. He thought it would be easy for a business owner to claim that all employees smoked. He had heard from many employees across the state in every district. He affirmed that he would check on the earlier question pertaining to a private business that did not serve the public.

Co-Chair MacKinnon pointed out a section of the bill starting page 4, line 3:

- (f) Notwithstanding (b) of this section, unless the owner or operator prohibits it, smoking is allowed
- (1) in a vehicle that is a place of employment when the vehicle is used exclusively by one person;
 - (2) on a vessel when the vessel is engaged in commercial fishing or sport charter fishing.

Senator Dunleavy asked the sponsor to review why fishing vessels were an exception within the bill.

Senator Micciche reiterated that the bill was about employee safety. He thought it was counter to the objectives of the bill to force fishers out on deck in rough seas to smoke a cigarette.

[10:26:15 AM](#)

Senator Dunleavy referred to page 2, line 14 of the bill; pertaining to multi-family homes and apartments that shared common living space. He wondered if there was there a way to designate a communal area as smoking or non-smoking predicated on the wishes of the residents.

Senator Micciche answered in the negative, and relayed that the matter was a common complaint. He furthered that the only responsibility of the property owner was the posting of the non-smoking signs. He stated that it was possible to provide a stand-alone shelter outside of the building.

Senator Dunleavy referred to a survey in the member's packet and asked how much stock the sponsor put in the document.

Senator Micciche thought the survey was significant, and stated that it was a Dittman survey conducted for the American Cancer Society (copy on file). He mentioned the 100's of businesses around the state, all of the municipalities, and many individuals that supported the bill. He could not think of another bill with the same level of support. He discussed the regulation of other activities that had lower public health exposures than secondhand smoke.

Senator Dunleavy agreed that there were many things that were regulated.

10:29:41 AM

Senator Olson asked about the perspective of a health professional. He referred to the harm done to smokers and those exposed to secondhand smoke. He discussed smoking cessation and vaping. He asked if the bill adequately balanced the regulations so that individuals exposed to vaping were adequately protected.

Dr. Butler stated that he considered benefit versus risk when reviewing a health intervention as a healthcare provider. He agreed with previous testimony that asserted cigarette smoke was not the same as aerosol from a vaping device. He thought there was a great deal of anecdotal information that suggested e-cigarettes were helpful in smoking cessation. He referenced data that showed in past years 80 percent of people who used e-cigarettes also used combustible tobacco; although the number had declined. He thought the decline suggested that there would be some success in quitting combustible tobacco by using vaping devices.

Dr. Butler continued to address Senator Olson's question. He shared that had quit smoking after the first time he observed a coronary bypass surgery. He spoke to the addictive nature of nicotine. He referred to testimony the previous year that nicotine was completely non-addictive, but was unsure where the information had originated. He stated that it was known that nicotine had a number of actions within the brain, and early exposure seemed to influence further brain development and increased risk of having difficulties with nicotine cessation later in life.

10:33:33 AM

Dr. Butler relayed that the surgeon general had addressed the risk of e-cigarettes, as it related to youth uptake. He thought that in Alaska (as well as nationally) the most common type of tobacco use among teens was e-cigarettes. He appreciated the efforts of the industry to avoid sales to youth, but noted that youth were clearly using the products. He was uncertain about the claims that the bill would ruin the industry, as the suggestion in the bill was not more complicated than taking the product outside so it was not used around people who did not wish to be exposed to vaping aerosols.

Senator Olson surmised that Dr. Butler thought that the bill adequately addressed the topic of individuals trying to stop smoking cigarettes with vaping, as well as protecting the public.

Dr. Butler answered in the affirmative.

10:35:01 AM

Co-Chair MacKinnon RE-OPENED public testimony.

TERRI CROWSON, SELF, DELTA JUNCTION (via teleconference), testified in support of the bill. She emphasized that there were physical, mental, and fiscal impacts of smoking in the workplace. She thought the legislation would make a difference for many people. She discussed lack of choice and living in a small community. She discussed the health of employees in the smoking workplace. She urged the committee to pass the bill.

Senator Micciche considered that vaping was better than tobacco use, and mused that vaping was in the bill because of concern over breathing exhalations of others that used e-cigarettes. He wondered about other substances that could be consumed in an e-cigarette or vaping device. He had reviewed materials provided by supporters of vaping. He discussed the concept of liberty.

Dr. Butler affirmed that other substances could be consumed with a vaping device working as an active delivery tool. He referred to an outbreak of "spice" (a synthetic cannabinoid) the previous year, at which time it was found that there were products erroneously labelled as car air freshener that were being vaped. The substance had been found to contain the same mix of synthetic cannabinoids that were in some herbal products recovered from individuals that had been hospitalized. He stressed that the cases he mentioned were primary use rather than secondhand exposure.

10:39:50 AM

AT EASE

10:40:34 AM

RECONVENED

Co-Chair MacKinnon asked for committee members to provide proposed amendments to her office by Wednesday at 5:00 p.m. She informed that she would be working on a committee substitute to address issues and questions that were raised in the meeting.

Vice-Chair Bishop discussed the fiscal notes. He addressed FN1 from the Department of Transportation and Public Facilities (DOT), which replaced a previous note and was a zero fiscal note. He relayed that DOT had considered that additional signage was not needed to comply with the bill.

Co-Chair MacKinnon believed that the department was able to keep its existing signs.

Vice-Chair Bishop addressed FN2 from Department of Environmental Conservation (DEC), which was a zero fiscal note.

Vice-Chair Bishop addressed FN3, from Department of Health and Social Services (DHSS). He read from the 'Analysis' section on page 2 of the fiscal note:

This bill amends AS 18.35, Public Accommodations and Facilities, by adding Article 4, Prohibition of Smoking in Certain Places, and repealing Article 3, Regulation of Smoking in Public Facilities. The Department of Environmental Conservation is currently responsible for enforcement of Article 3 of Chapter 18.35, Regulation of Smoking in Public Facilities. Under this bill, the Commissioner of Health and Social Services would be responsible for ensuring compliance and providing signage and education regarding the law, in combination with the existing comprehensive smoking education, tobacco use prevention, and tobacco control program—currently provided by the department (AS 44.29.020(a)(14), Duties of the Department).

Vice-Chair Bishop discussed FN4 from the Department of Public Safety, which was a zero fiscal note. He noted that the bill allowed peace officers to issue citations for violations related to smoking.

Vice-Chair Bishop addressed FN5 from the Department of Commerce, Community and Economic Development, which was a zero fiscal note. He read from the analysis on the second page of the fiscal note:

The Alcohol and Marijuana Control Office does not anticipate fiscal impact from this legislation. Any regulations required of the Marijuana Control Board will be included in existing regulations projects.

Senator Dunleavy asked about the likelihood of the administration returning with the following year with a supplemental request to make up for any perceived shortfall from the zero fiscal notes.

Co-Chair MacKinnon informed that the committee had worked with the department to determine that current signage was appropriate.

Co-Chair MacKinnon restated that amendments were due to her office Wednesday, March 15th, 2017.

Co-Chair MacKinnon discussed the agenda for the following day.

#

ADJOURNMENT

[10:45:58 AM](#)

The meeting was adjourned at 10:45 a.m.