

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 20, 2017

1:38 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Mia Costello
Senator Kevin Meyer
Senator Pete Kelly
Senator Bill Wielechowski

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 6

"An Act relating to industrial hemp; and relating to controlled substances."

- MOVED CSSB 6(JUD) OUT OF COMMITTEE

SENATE BILL NO. 55

"An Act relating to criminal law and procedure; relating to controlled substances; relating to sentencing; relating to the period of probation; relating to revocation, termination, suspension, cancellation, or restoration of a driver's license; relating to parole; relating to the duties of the Department of Corrections and the Department of Health and Social Services; and providing for an effective date."

- MOVED CSSB 55(JUD) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 6

SHORT TITLE: INDUSTRIAL HEMP PRODUCTION

SPONSOR(S): SENATOR(S) HUGHES

01/09/17	(S)	PREFILE RELEASED 1/9/17
01/18/17	(S)	READ THE FIRST TIME - REFERRALS
01/18/17	(S)	RES, JUD
02/08/17	(S)	RES AT 3:30 PM BUTROVICH 205

02/08/17 (S) Heard & Held
 02/08/17 (S) MINUTE(RES)
 02/13/17 (S) RES AT 3:30 PM BUTROVICH 205
 02/13/17 (S) Heard & Held
 02/13/17 (S) MINUTE(RES)
 02/15/17 (S) RES AT 3:30 PM BUTROVICH 205
 02/15/17 (S) Moved CSSB 6(RES) Out of Committee
 02/15/17 (S) MINUTE(RES)
 02/17/17 (S) RES RPT CS 5DP 1NR NEW TITLE
 02/17/17 (S) DP: GIESSEL, HUGHES, COGHILL, VON
 IMHOF, MEYER
 02/17/17 (S) NR: STEDMAN
 02/17/17 (S) FIN REFERRAL ADDED AFTER JUD
 02/20/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/20/17 (S) Heard & Held
 02/20/17 (S) MINUTE(JUD)
 02/22/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/22/17 (S) Heard & Held
 02/22/17 (S) MINUTE(JUD)
 03/13/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/13/17 (S) Heard & Held
 03/13/17 (S) MINUTE(JUD)
 03/20/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 55

SHORT TITLE: OMNIBUS CRIME/CORRECTIONS

SPONSOR(s): JUDICIARY

02/10/17 (S) READ THE FIRST TIME - REFERRALS
 02/10/17 (S) JUD, FIN
 02/15/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 02/15/17 (S) Heard & Held
 02/15/17 (S) MINUTE(JUD)
 03/15/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/15/17 (S) -- MEETING CANCELED --
 03/17/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
 03/17/17 (S) Scheduled but Not Heard
 03/20/17 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

JORDAN SHILLING, Staff
 Senator John Coghill
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Reviewed the differences between version I and version M of SB 6.

SARA CHAMBERS, Acting Director
Alcohol and Marijuana Control Board
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 6.

KACI SCHROEDER, Assistant Attorney General
Criminal Division
Department of Law (DOL)
Juneau, Alaska

POSITION STATEMENT: Answered questions related to SB 6.

BUDDY WHITT, Staff
Senator Shelly Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information related to SB 6 on behalf of the sponsor.

FRANK TURNEY, representing himself
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of SB 6.

NANCY HILLSTRAND
Coal Point Seafoods
Kachemak, Alaska

POSITION STATEMENT: Testified in support of SB 6.

EMBER HAYNES, representing herself
Talkeetna, Alaska

POSITION STATEMENT: Testified in support of SB 6.

STEVE ALBERS, representing himself
Kenai, Alaska

POSITION STATEMENT: Provided information related to SB 6.

JACK BENNETT
Industrial Hemp Manufacturing, LLC
Anchorage, Alaska

POSITION STATEMENT: Testified in support of SB 6.

JORDAN SHILLING, Staff
Senator John Coghill
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the changes in version N of SB 55.

ACTION NARRATIVE

[1:38:22 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:38 p.m. Present at the call to order were Senators Costello, Wielechowski, Kelly, Meyer, and Chair Coghill.

SB 6-INDUSTRIAL HEMP PRODUCTION

[1:38:59 PM](#)

CHAIR COGHILL announced the consideration of SB 6 and solicited a motion to adopt the proposed committee substitute (CS).

[1:39:12 PM](#)

SENATOR COSTELLO moved to adopt the work draft CS for SB 6, version 30-LS0173\M, as the working document.

[1:39:26 PM](#)

CHAIR COGHILL objected for an explanation of the changes.

[1:39:29 PM](#)

JORDAN SHILLING, Staff, Senator John Coghill, reviewed the following changes between version I and version M of SB 6:

Page 1, Lines 8 & 9:

Intent language added in section one of the bill. The intention is for the legislature to reevaluate the regulation of industrial hemp in seven years.

The sunset dates on the previous version have been removed with the addition of this section.

Page 5, lines 24 & 25:

CBD [Cannabidiol] oils are not included in the definitions of hashish or hashish oil in this subsection.

Page 6, lines 9-14:

Language added to allowing the display of registration on a mobile electronic device as a valid form of registration for transportation of industrial hemp

under this section. Also, displaying proof of registration on a mobile electronic device does not constitute consent for a peace officer's access to other contents on the device.

Page 7, lines 17-30:

Requires the Department of Natural Resources to submit a report by December 1, [each year until 2024] on the regulation of industrial hemp in the state.

MR. SHILLING advised that the annual report must include the following information: the total number of registered hemp producers; the number of violations that have occurred; the number of stop orders issued; the total amount of hemp grown each year; and a summary of the economic effects of the pilot program.

CHAIR COGHILL commented that the hope is to increase the economic benefit.

[1:43:16 PM](#)

SENATOR WIELECHOWSKI noted the prohibition against using hemp for hashish and read the definition of hashish in AS 11.71.900, which says it is "the dried, compressed, resinous product of the plant." He asked if that means that you can't dry or compress hemp.

[1:44:03 PM](#)

At ease

[1:44:36 PM](#)

CHAIR COGHILL reconvened the meeting.

MR. SHILLING said he doesn't believe it would preclude someone from drying hemp. For a product to be defined as hashish, it would have to be dried, compressed, and most importantly the resinous part of the plant. He suggested that Sara Chambers with the Alcohol and Marijuana Control Board probably has a better understanding of the implications of using that definition.

[1:45:42 PM](#)

SARA CHAMBERS, Acting Director, Alcohol and Marijuana Control Board, Department of Commerce, Community and Economic Development (DCCED), deferred the question to the Department of Law.

[1:46:53 PM](#)

KACI SCHROEDER, Assistant Attorney General, Criminal Division, Department of Law (DOL), concurred with Mr. Shilling's reading of the definition. To be considered hashish, the product would have to have to be the dried, compressed, and the resinous part of the plant. "I don't think that in itself prohibits somebody from drying hemp."

SENATOR WIELECHOWSKI asked for confirmation that adopting that definition wouldn't inhibit the uses mentioned in the testimony.

CHAIR COGHILL offered his understanding that the plant under this definition is a marijuana plant.

MS. SCHROEDER said that's correct.

CHAIR COGHILL added that this excludes one section so there isn't any confusion between marijuana and hemp.

MS. SCHROEDER confirmed that under the provisions of SB 6, marijuana is not hemp.

SENATOR WIELECHOWSKI asked if it's Cannabis.

MS. SCHROEDER said she didn't know if there is a statutory definition of Cannabis.

SENATOR WIELECHOWSKI read the definition in AS 11.71.900(10).

(10) "hashish" means the dried, compressed, resinous product of the plant (genus) Cannabis;

He said he wants the record to be clear so that nobody will be arrested and sent to jail for drying or compressing hemp. He added that his assumption is that it would need to be dried and compressed for just about any purpose.

MS. SCHROEDER replied hashish has a specific meaning in the criminal code and the way it's made is intended to concentrate THC (Tetrahydrocannabinol) for a psychoactive effect. "I don't think that we can get there with just making paper as you have described."

SENATOR WIELECHOWSKI restated that the bill adopts the definition of hashish from the criminal code, which is defined as "the dried, compressed, resinous product of the plant (genus) Cannabis." He said his reading is that drying or compressing

hemp potentially violates the law. He asked, "You're saying otherwise as the representative of the Department of Law."

MS. SCHROEDER said she understands that reading but doesn't believe that is the intent. "If you think that there needs to be some clarifying language then we could think about doing that, but I don't think anyone's going to be prosecuted for making paper out of industrial hemp."

[1:50:39 PM](#)

SENATOR KELLY offered his perspective that hemp isn't a resinous product.

SENATOR WIELECHOWSKI reread the definition and said he assumes it means a dried and compressed and resinous product.

SENATOR KELLY said it's a fair point; the definition doesn't really apply because hemp doesn't have a resinous product.

CHAIR COGHILL asked the sponsor if hemp is known as the same thing as (genus) Cannabis.

[1:52:18 PM](#)

BUDDY WHITT, Staff, Senator Shelly Hughes, Alaska State Legislature, sponsor of SB 6, said his reading of the statute is that Cannabis would include hemp. The bill defines industrial hemp as Cannabis with 0.3 percent THC or less.

SENATOR WIELECHOWSKI argued that the statute the bill adopts says industrial hemp produced under a registration under this section may not be used to produce hashish under the meaning given in AS 11.71.900. The definition in AS 11.71.900(10) says:

(10) "hashish" means the dried, compressed, resinous product of the plant (genus) Cannabis;

He asked if it's possible to have a dried, compressed, resinous product of hemp.

MR. WHITT answered yes. The sponsor didn't want to exclude the known non-psychoactive components that are used in commercial CBD oil products. Once CBD oil was removed from the definition of hashish, the sponsor was satisfied.

[1:55:58 PM](#)

CHAIR COGHILL opened public testimony on SB 6.

[1:56:41 PM](#)

FRANK TURNEY, representing himself, Fairbanks, Alaska, voiced support for excluding CBD from the definition of hashish. He also expressed hope that hemp would not be regulated to the point that it's a barrier for farmers and people interested in getting involved in the industry. He said he looks forward to the time when the 25,000 products that can be made from hemp are on the shelves and not as imports. He commented on the fact that the federal government lists industrial hemp as a controlled substance and voiced support for Alaska listing it as an agricultural product. He raised questions about who would participate in the pilot project and talked about the difficulty of transporting hemp seed across state lines.

[2:00:43 PM](#)

NANCY HILLSTRAND, Coal Point Seafoods, Kachemak, Alaska, stated support for SB 6. She uses a lot of corrugated paper at her seafood plant and looks forward to the day it can be manufactured in Alaska from industrial hemp. She listed the benefits of industrial hemp: it is fast growing, improves soil, is naturally resistant to pests, is carbon negative, is 10 times stronger than cotton, the seeds are high in omega-3s, and it's a complete protein. Alaska will benefit from passage of this bill, she said.

[2:02:23 PM](#)

EMBER HAYNES, representing herself, Talkeetna, Alaska, expressed appreciation that the current version of SB 6 removes the sunset clause. She clarified that hemp is of the genus Cannabis Sativa L. and that there are Cannabis plants that are grown for high resin CBD and used to counter the effects of seizures and pain. It is different than the CBD that is found in health food stores. The latter is made from the entire hemp plant whereas the high resin CBD is made from the flowers of the Cannabis plant. She asked for assurance that the language in the bill wouldn't cause questions regarding hemp seeds that are non-viable, and expressed hope that the pilot program would allow people with small acreage to grow industrial hemp for their livestock and personal use.

[2:05:53 PM](#)

STEVE ALBERS, representing himself, said he serves on the board of the Kenai Soil & Water Conservation District but isn't speaking for the board. He opined that allowing hemp production as an agricultural product will benefit the state in countless ways. He mentioned remediation for the oil industry and forage for livestock. It has the potential to be a self-sustaining

industry that will benefit other industries throughout the state. He opined that the Division of Agriculture is best suited to provide regulation and he doesn't anticipate that violations will be a problem. He is pleased there is such open transparency about the product. It is an industry that has the potential to be beneficial as soon as the plants are in the ground.

[2:09:15 PM](#)

JACK BENNETT, Industrial Hemp Manufacturing, LLC, Anchorage, Alaska, testified in support of SB 6. He said this LLC has enough equipment to process 40 million pounds of industrial hemp annually. He mentioned doing business with oil companies worldwide, a 7-year contract to sell hemp for oil reclamation technology, and selling fiber to the automotive industry to illustrate the versatility of industrial hemp. He opined that industrial hemp will revitalize the farming industry in Alaska and voiced support for the Division of Agriculture being the regulating agency. He advised that there are grants available to fund manufacturing of industrial hemp products.

[2:12:59 PM](#)

CHAIR COGHILL closed public testimony on SB 6.

SENATOR COSTELLO directed attention to the language on page 7, line 18; it mandates a written report to the legislature on an annual basis. She suggested either striking the word "written" or specifying the report be in electronic format.

CHAIR COGHILL stated his preference not to amend the bill because it would slow its progress.

SENATOR COSTELLO said the sponsor heard her comment and suggestion.

[2:16:08 PM](#)

SENATOR COSTELLO moved to report the CS for SB 6 from committee with individual recommendations and attached fiscal note(s).

[2:16:52 PM](#)

CHAIR COGHILL found no objection and announced that CSSB 6(JUD) is reported from the Senate Judiciary Standing Committee.

[2:17:01 PM](#)

At ease

SB 55-OMNIBUS CRIME/CORRECTIONS

2:19:18 PM

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 55. He noted that this is the second hearing and there is a proposed committee substitute (CS).

2:19:50 PM

SENATOR COSTELLO moved to adopt the work draft CS for SB 55, version 30-LS0119\N, as the working document.

2:20:01 PM

CHAIR COGHILL objected for an explanation of the changes.

2:20:18 PM

JORDAN SHILLING, Staff, Senator John Coghill, Alaska State Legislature, explained that since the last hearing several agencies offered technical changes to SB 55. He clarified that the amendments are intended to smooth out some of the implementation issues and drafting errors; they are not recommendations from the Alaska Criminal Justice Commission ("Commission").

MR. SHILLING directed attention to Section 4, which amends the misdemeanor drug possession statute. He explained that Senate Bill 91 reduced simple possession of a controlled substance to a class A misdemeanor, but it failed to make all forms of possession a misdemeanor. For example, it did not repeal the statute that makes it a felony to recklessly possess drugs around schools or on a school bus or near a youth center. This corrects the oversight and references the two additional forms of felony possession.

SENATOR WIELECHOWSKI asked what the penalty is for possession of hashish.

MR. SHILLING replied hashish is a schedule IIIA controlled substance and possession would be a class A misdemeanor. The distribution and manufacture are both felonies. He deferred to the Department of Law any discussion about whether the agency is pursuing prosecutions since that conflicts with the voter initiative and the language in Title 17.

MR. SHILLING directed attention to Section 7, which aligns the restitution requirements for suspended entry of judgment (SEJ) and suspended imposition of sentence (SIS). He explained that current statute says that the order to pay restitution in a SIS is not discharged once the requirements of the SIS are completed. It was an oversight that the suspended entry of

judgment statute that was created in Senate Bill 91 did not make a similar stipulation. Section 7 corrects the oversight and clarifies that the order for restitution is not discharged once the SEJ proceeding is dismissed.

[Section 8 Clarifies that imprisonment may not be imposed in a Suspended Entry of Judgment.]

Section 9 clarifies that a person who has successfully completed probation and the requirements of a Suspended Entry of Judgment is not convicted of a crime. Again, the SEJ is supposed to largely mirror the SIS, with a few differences. One of the major differences between the two is that SEJ was not intended to appear in CourtView. The notion was to allow an individual to legally, factually say on an employee application that they have not been convicted. He said there's been some question about that and this CS clarifies that an individual whose proceeding has been discharged under an SEJ has not been convicted of a crime.

MR. SHILLING said Sections 12 and 13 are statutes that require certain information to be given to the respondent of a protective order. This includes the potential penalties for violating the protective order. That is a class A misdemeanor and the penalty is up to a year in prison and the maximum fine is \$25,000. It is an oversight that the form the respondent is given still says the maximum fine is \$10,000. Senate Bill 91 was amended on the House floor increasing the maximum penalty for a class A misdemeanor from \$10,000 to \$25,000.

He opined that the implications of that floor amendment on other parts of the statute weren't analyzed at the time. This important cleanup item allows the respondent to know that they could be fined up to \$25,000 if they violate the protective order.

MR. SHILLING advised that Section 16 adds to the list in statute the persons under age 21 who may be referred to and accepted in the Department of Health and Social Services Alcohol Safety Action Program (ASAP). These two Title 4 references should have been listed in the statute after Senate Bill 65 passed last year. They were overlooked - probably because the two bills passed at the same time, and this corrects the omission.

MR. SHILLING explained that Section 17 deletes a statute that was inadvertently repealed in the last CS. This corrects that error.

[2:28:51 PM](#)

CHAIR COGHILL listed the individuals available to answer questions and asked if the committee was comfortable moving the bill.

SENATOR MEYER asked about the fiscal impact of these changes and noted that he didn't have a copy of the fiscal note.

MR. SHILLING said the fiscal note isn't in members' packets, but the general understanding is that the changes will not increase the fiscal impact on the Department of Corrections (DOC).

CHAIR COGHILL asked Senator Meyer if he wanted to wait on a fiscal note before moving the bill.

SENATOR MEYER answered no.

MR. SHILLING advised that the next committee of referral is the Finance Committee.

[2:30:20 PM](#)

SENATOR COSTELLO moved to report the CS for SB 55, version 30-LS0119\N, from committee with individual recommendations and attached fiscal note(s).

[2:30:35 PM](#)

CHAIR COGHILL removed his objection to adopting the CS and announced that CSSB 55(JUD) is reported from the Senate Judiciary Standing Committee.

[2:30:50 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:30 p.m.