

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 11, 2018

1:37 p.m.

MEMBERS PRESENT

Senator John Coghill, Chair
Senator Mia Costello
Senator Bill Wielechowski
Senator Mike Shower

MEMBERS ABSENT

Senator Pete Kelly

COMMITTEE CALENDAR

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 76

"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, Alaska Rules of Minor Offense Procedure; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 307(JUD)

"An Act requiring a person who commits certain offenses under the code of military justice to register as a sex offender or child kidnapper; relating to the Servicemembers Civil Relief Act; relating to contracts made by servicemembers; relating to nonjudicial punishment of members of the organized militia; relating to offenses subject to court-martial proceedings; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 20(JUD)

"An Act relating to marriage solemnization; and authorizing elected public officials in the state to solemnize marriages."

- HEARD & HELD

SENATE BILL NO. 195

"An Act relating to restitution; relating to the office of victims' rights; relating to transfers from the dividend fund; creating the restorative justice account; relating to appropriations from the restorative justice account for services for and payments to crime victims, operating costs of the Violent Crimes Compensation Board, operation of domestic violence and sexual assault programs, mental health services and substance abuse treatment for offenders, and incarceration costs; relating to contributions from dividends; relating to delinquent minors; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 47

"An Act relating to motor vehicle franchises, motor vehicle transactions, motor vehicle dealers, motor vehicle manufacturers, and motor vehicle distributors."

- BILL HEARING CANCELED

SENATE JOINT RESOLUTION NO. 14

Proposing an amendment to the Constitution of the State of Alaska relating to notice and consent before termination of a minor's pregnancy.

- BILL HEARING CANCELED

HOUSE BILL NO. 208

"An Act relating to trusts and powers of appointment; and providing for an effective date."

- BILL HEARING CANCELED

SPONSOR SUBSTITUTE FOR HOUSE JOINT RESOLUTION NO. 21

Urging the federal government to respect the authority of the state to regulate marijuana use, production, and distribution and to honor previous federal guidance on marijuana policy; and urging the federal government to reconsider its listing of marijuana as a schedule I controlled substance.

- SCHEDULED BUT NOT HEARD

CS FOR SS FOR HOUSE BILL NO. 44 (STA)

"An Act requiring a legislator to abstain from taking or withholding official action or exerting official influence that

could benefit or harm an immediate family member or certain employers; and requiring a legislator to request to be excused from voting in an instance where the legislator may have a financial conflict of interest."

- SCHEDULED BUT NOT HEARD

SENATE BILL NO. 134

"An Act relating to the appointment of guardians ad litem; relating to petitions and proceedings for termination of parental rights; and amending Rules 1 and 6, Alaska Adoption Rules."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

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)

BILL: HB 307

SHORT TITLE: MILITARY JUSTICE & MILITIA CIVIL RELIEF
SPONSOR(s): REPRESENTATIVE(s) TUCK

01/24/18 (H) READ THE FIRST TIME - REFERRALS
01/24/18 (H) MLV, JUD
01/30/18 (H) MLV AT 1:30 PM GRUENBERG 120
01/30/18 (H) Heard & Held
01/30/18 (H) MINUTE(MLV)
02/06/18 (H) MLV AT 1:00 PM GRUENBERG 120
02/06/18 (H) Heard & Held
02/06/18 (H) MINUTE(MLV)
02/13/18 (H) MLV AT 1:00 PM GRUENBERG 120
02/13/18 (H) Moved CSHB 307(MLV) Out of Committee
02/13/18 (H) MINUTE(MLV)
02/14/18 (H) MLV RPT CS(MLV) NT 2DP 1NR 2AM
02/14/18 (H) DP: PARISH, TUCK
02/14/18 (H) NR: SADDLER
02/14/18 (H) AM: RAUSCHER, LEDOUX
02/19/18 (H) JUD AT 1:30 PM GRUENBERG 120
02/19/18 (H) Heard & Held
02/19/18 (H) MINUTE(JUD)
02/21/18 (H) JUD AT 1:00 PM GRUENBERG 120
02/21/18 (H) Moved CSHB 307(JUD) Out of Committee
02/21/18 (H) MINUTE(JUD)
02/23/18 (H) JUD RPT CS(JUD) NT 6DP 1NR
02/23/18 (H) DP: KOPP, KREISS-TOMKINS, STUTES,
LEDoux, REINBOLD, CLAMAN
02/23/18 (H) NR: EASTMAN
02/28/18 (H) TRANSMITTED TO (S)
02/28/18 (H) VERSION: CSHB 307(JUD)
03/01/18 (S) READ THE FIRST TIME - REFERRALS
03/01/18 (S) JUD
04/02/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/02/18 (S) Scheduled but Not Heard
04/11/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 20

SHORT TITLE: SOLEMNIZE MARRIAGE: ELECTED OFFICIALS
SPONSOR(s): REPRESENTATIVE(s) CLAMAN

01/18/17 (H) PREFILE RELEASED 1/9/17
01/18/17 (H) READ THE FIRST TIME - REFERRALS
01/18/17 (H) STA, JUD
02/16/17 (H) STA AT 3:00 PM GRUENBERG 120
02/16/17 (H) Heard & Held
02/16/17 (H) MINUTE(STA)
02/18/17 (H) STA AT 11:00 AM GRUENBERG 120

02/18/17 (H) Moved CSHB 20(STA) Out of Committee
 02/18/17 (H) MINUTE(STA)
 02/22/17 (H) STA RPT CS(STA) 4DP 2DNP
 02/22/17 (H) DP: TUCK, KNOPP, JOSEPHSON, KREISS-
 TOMKINS
 02/22/17 (H) DNP: JOHNSON, BIRCH
 03/03/17 (H) JUD AT 1:00 PM GRUENBERG 120
 03/03/17 (H) Heard & Held
 03/03/17 (H) MINUTE(JUD)
 03/06/17 (H) JUD AT 1:00 PM GRUENBERG 120
 03/06/17 (H) Heard & Held
 03/06/17 (H) MINUTE(JUD)
 03/08/17 (H) JUD AT 1:00 PM GRUENBERG 120
 03/08/17 (H) Moved CSHB 20(JUD) Out of Committee
 03/08/17 (H) MINUTE(JUD)
 03/15/17 (H) JUD RPT CS(JUD) 4DP 1NR 2AM
 03/15/17 (H) DP: KOPP, KREISS-TOMKINS, LEDOUX,
 CLAMAN
 03/15/17 (H) NR: FANSLER
 03/15/17 (H) AM: EASTMAN, REINBOLD
 02/19/18 (H) TRANSMITTED TO (S)
 02/19/18 (H) VERSION: CSHB 20(JUD)
 02/21/18 (S) READ THE FIRST TIME - REFERRALS
 02/21/18 (S) STA, JUD
 04/03/18 (S) STA AT 3:30 PM BUTROVICH 205
 04/03/18 (S) Moved CSHB 20(JUD) Out of Committee
 04/03/18 (S) MINUTE(STA)
 04/04/18 (S) STA RPT 2DP 2NR 1AM
 04/04/18 (S) DP: MEYER, EGAN
 04/04/18 (S) NR: GIESSEL, COGHILL
 04/04/18 (S) AM: WILSON
 04/09/18 (S) JUD WAIVED PUBLIC HEARING NOTICE, RULE
 23
 04/11/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: SB 195

SHORT TITLE: PF DIVIDEND FUND TRANSFERS;CRIMES;VICTIMS
 SPONSOR(S): SENATOR(S) HUGHES

02/19/18 (S) READ THE FIRST TIME - REFERRALS
 02/19/18 (S) JUD, FIN
 04/11/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

SENATOR PETER MICCICHE
 Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 76

ANNA BRAWLEY, Title 4 Project Review Coordinator and
Senior Associate

Agnew Beck Consulting

Anchorage, Alaska

POSITION STATEMENT: Introduced SB 76 on behalf of the sponsor.

RACHAEL HANKE, Staff

Senator Peter Micciche

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Delivered a sectional analysis of SB 75 on behalf of the sponsor.

REPRESENTATIVE CHRIS TUCK

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 307.

KENDRA KLOSTER, Staff

Representative Chris Tuck

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Delivered the sectional analysis of HB 307 on behalf of the sponsor.

BOB DOEHL, Deputy Commissioner

Department of Military & Veterans Affairs (DMVA)

Anchorage, Alaska

POSITION STATEMENT: Answered questions related to HB 307.

CAPTAIN BLAKE CIRCLE

Alaska Army National Guard

JBER Alaska

POSITION STATEMENT: Answered questions related to HB 307.

SARA PERMAN, Staff

Representative Matt Claman

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced HB 20 on behalf of the sponsor.

BUDDY WHITT, Staff

Senator Shelley Hughes

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Introduced SB 195 on behalf of the sponsor.

ERIC CORDERO GIORGANA, Staff
Representative Chuck Kopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Described the progress of HB 216, the companion to SB 195.

ACTION NARRATIVE

[1:37:02 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 1:37 p.m. Present at the call to order were Senators Costello, Shower, Wielechowski, and Chair Coghill.

SB 76-ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

[1:38:47 PM](#)

CHAIR COGHILL announced the consideration of SB 76. [CSSSSB 76(L&C) was before the committee.]

[1:39:02 PM](#)

SENATOR PETER MICCICHE, Alaska State Legislature, Juneau, Alaska, sponsor of SB 76, stated that the bill is the Title 4 rewrite. SB 76 modernizes the state's 35-year-old alcoholic beverage statutes to allow the Alcoholic Beverage Control Board to operate more efficiently as it regulates the industry in a manner that promotes public safety and health while supporting the industry's viability. The bill is the product of a five-year collaboration of over 100 stakeholders. This diverse group includes representatives of the alcohol industry, public health, public safety, local governments, and advocates for youth.

Five shared goals served as the foundation for developing the recommendations:

1. Promoting a fair business climate while protecting public safety and health
2. Creating rational regulations for all tiers of the state's alcohol industry
3. Limiting youth access to alcohol

4. Promoting responsible alcohol use and reducing the harms of overconsumption
5. Implementing without negative impacts on business and operators

SENATOR MICCICHE said SB 76 is largely a reorganization of existing statutes. It clearly defines the rights and obligations of licensees, restructures penalties for Title 4 offenses, and organizes the statutes in a logical manner for all the users.

[1:41:30 PM](#)

ANNA BRAWLEY, Title 4 Project Review Coordinator and Senior Associate, Agnew Beck Consulting, Anchorage, Alaska, thanked the committee for hearing SB 76 and invited questions at the end of each section of the presentation. She said she would give a brief overview of the Title 4 review project and highlight the recommendations in SB 76. She would also clarify the substantive portions that are not changing but being reorganized.

She said the title has not been updated since 1980 and piecemeal changes have created confusion in the law. Looking at the entire title to see what is and is not working and how the pieces fit together was the goal of the project. The Alcoholic Beverage Control (ABC) Board initiated the project in 2012 in recognition of the issues with the statutes that needed to be addressed. The board and others brought together over 100 stakeholders and have put in at least 12,000 hours on the project since 2012. The result is SB 76.

MS. BRAWLEY displayed slide 4, which is a sectional overview of SB 76 that helps show how the bill is organized. There are several chapters of Title 4 that deal with different subjects and that's the way the bill is organized. For example, Chapter 11 is licensing, Chapter 6 is powers and duties of the board. The Title 4 Review Stakeholder Report has a more thorough review of each recommendation and what was considered by the stakeholder group.

She listed the following six categories of the Title 4 review recommendations:

1. Alcohol licenses, permits and trade practices
2. Role and functions of the ABC Board and staff of the Alcohol and Marijuana Control Office
3. Recommendations relating to underage drinking and youth access to alcohol
4. Regulation of internet sales of alcohol

5. Technical or administrative law changes such as reorganizing the statutes
6. Discussion about local option communities

MS. BRAWLEY noted that the stakeholder group is interested in continuing the discussions with local option communities but the bill doesn't have many recommendations about this because more discussion and participation from rural communities is needed.

She reviewed the following key concepts in Title 4:

- Licenses and permits:
 - License: Allows a business to sell, serve, distribute and/or manufacture alcohol for the term of the license (2 years).
 - Permit: Allows time-limited alcohol sales or service by a licensee or non-licensed organization.
- The 3-tier system: The separation of manufacturers, wholesalers and retailers to prevent monopolies.
- Population limits: This statute regulates the number of licenses available in each community by type.
- Proposed new concept: Endorsements are license add-ons that allow an expanded physical presence or expanded activities on a license.

MS. BRAWLEY displayed slide 7, the 3-tier system that illustrates that alcohol must be manufactured, distributed, and sold to the public by different businesses. This system was established after prohibition and was designed to prevent monopolies. The laws have changed over the years, and a main theme of the discussion is how much of the 3-tier system to preserve and how much to change, given the changes in the industry.

She advised that population limits is another key concept that is addressed in current statute. Each license type is limited by the number of permanent residents in the community. For most licenses it is one per 3,000 residents and for restaurants it is one license per 1,500 residents. A few license types are exempt from population limits, most of which are for serving tourists. Retail outlets primarily have raised health and safety concerns regarding the population limits because a large number of different license types can result in a high density of licenses in a community even though the statute seems very restrictive.

MS. BRAWLEY said the first recommendation in SB 76 relates to population limits.

P-1. Population Limits Apply to Retail Licenses Only

- Apply population limitations on the number of licenses only to retail-tier licenses (excluding tourism-focused licenses and Winery Direct Shipment License).
- Wholesale licenses, manufacturer licenses who do not directly serve the public, and some licenses designed to serve tourists would be exempt from limits.

SB 76: Section 43, 04.11.400(a); Section 44, 04.11.400(i)

[1:48:50 PM](#)

SENATOR WIELECHOWSKI noted that slide 8 indicates that one package store is allowed for every 3,000 people and restaurants are one for every 1,500 people but the numbers on slide 9 are much lower. He asked how that happened and if those businesses are grandfathered or operating illegally.

MS. BRAWLEY said it's not licenses that are operating illegally. One reason that there are more licenses than the statute allows is that some were probably issued before the population limits were put in place. Also, slide 9 shows the total number of retail licenses in those communities, not just bars or package store. Depending on the number of types of licenses being operated in the community, the numbers can get very high.

SENATOR WIELECHOWSKI asked if she knew the number of package stores or restaurants per residents in Juneau, Nome, and Fairbanks to get an apples to apples comparison versus the statute.

MS. BRAWLEY said she would get the numbers from the Alcohol Marijuana Control Office (AMCO). They publish the number of licenses operating in each community.

SENATOR WIELECHOWSKI asked how the rewrite will change the overall density of licenses based on population.

MS. BRAWLEY replied the rewrite will not change the underlying population limit formulas. It keeps any retail license that is currently under population limits at the same level. Part of the rewrite is a recommendation to not create new license types or

at least to consider the implications of creating new license types.

[1:51:02 PM](#)

MS. BRAWLEY directed attention to slide 11 and explained that another primary recommendation of SB 76 is to increase license fees. Most license fees have not been increased since the 1980s or when the license type was created in statute.

F-1 Adjust License Fees to Reflect Current ABC Budgetary Needs.

- Update license fees according to privileges and administrative costs of each, and collect sufficient revenue to cover the ABC Board's required activities:
 - Administration of licenses & permits
 - Education about Title 4 and related regulations
 - Enforcement of Title 4 and related regulations
- ABC Board required to review license fees at least every 10 years.
- (see also RB-3: Revise ABC Board Budget to Adequately Fund Necessary Activities).
- See Appendix, Table 2 on page 66 of the report.

SB 76: Section 5, 04.06.090; License fees throughout Section 9

CHAIR COGHILL asked if this will help relieve some of the stress the board is under regarding licensing, enforcement, and permits.

MS. BRAWLEY deferred the question to Erika McConnell, the director of AMCO.

[1:53:33 PM](#)

MS. BRAWLEY directed attention to the recommendation in slide 12. Under current statute, municipal governments receive half the license fee revenue collected by the ABC Board for the purpose of enforcing Title 4. SB 76 strengthens the existing requirement that municipalities report how those funds are being used:

RB-1. Strengthen Reporting Requirements for Municipal Enforcement.

- Include in statutory requirements (AS 04.11.610) that municipalities submit quarterly reports on Title 4 enforcement and education activities to the ABC Board: violations, educational presentations, other activities related to alcohol control.
- Municipalities with local law enforcement receive a matching allocation ("refund") of license fees collected within their jurisdiction. Funds intended to be used for Title 4 enforcement.

Slide 13, *Proposed in SB 76: Accountability for License Fees Allocated to Local Governments*, illustrates the current system and notes that the report would be required as part of the revenue allocation.

Slide 14 illustrates the reorganization of existing statutes.

Proposed Changes to licenses, endorsements and permits

SB 76, Section 9: *proposed new Chapter 9 in Title 4*

04.09.010: Types of Licenses

04.09.020 - .040: Manufacturing Tier Licenses

04.09.100 - .110: Wholesale Tier Licenses

04.09.200 - .360: Retail Tier Licenses

04.09.400: Definition of Endorsements

04.09.410 - .520: Types of Endorsements

04.09.600: Definition of Permits

04.09.610 - .690: Types of Permits

MS. BRAWLEY displayed slide 15, *License Types by Tier*. She noted that more information about each tier is in the stakeholder report and that most of the license types are not changing substantively.

- Manufacturing Tier
 - Brewery, Winery, Distillery
- Wholesale Tier
 - General Wholesale, Beer & Wine Wholesale
- Retail Tier
 - *Subject to population limits:* Beverage Dispensary, Restaurant or Eating Place, Club, Package Store, Pub, Theater, Common Carrier Dispensary, Sporting Event, Golf Course, Brewery Retail, Winery Retail, Distillery Retail

- *Exempt from population limits:* Outdoor Recreation Lodge, Destination Resort, Beverage Dispensary Tourism, Seasonal Restaurant or Eating Place Tourism, Winery Direct Shipment License

[SB 76: Section 9, defined in 04.09.020 - 040; 04.09.100 - 110; 04.09.200 - 360.]

[1:55:58 PM](#)

SENATOR SHOWER asked how the population limits and exemptions would apply to a summertime tourist town like Talkeetna.

MS. BRAWLEY said Talkeetna's situation would not be changed in the sense that certain license types are issued without consideration of population limits. Also, the existing population limits set within a borough or community within a borough are not changed by SB 76.

SENATOR SHOWER asked for confirmation that Talkeetna and Denali with the Princess lodges are in the Unincorporated Borough and would not change.

MS. BRAWLEY said that's correct.

MS. BRAWLEY displayed slide 16, *M-2&3. Manufacturer Retail Operations + Sampling. It lists the following proposals for breweries, wineries, and distilleries:*

- Allow small manufacturers, with the threshold defined in the bill, to obtain a retail license (restaurant, package store, etc.) Currently, with the exception of brewpubs, a manufacturer cannot get a package store license or a restaurant license.
- Add-on retail licenses specifically for manufacturers to allow limited onsite consumption and offsite sales.
 - Existing licenses converted
 - New retail licenses have 1:9,000 population limit
- A separate endorsement for free samples.

SB 76: Section 9, 04.09.310, .320, .330; 04.09.410; Section 43, 04.11.400(a).

She said the 1:9,000 population limit recognizes the possible unintended consequence of creating three new license types.

CHAIR COGHILL said he's heard some tension about the differences in fees and licenses.

MS. BRAWLEY said her understanding is that there is an application fee for all licenses and each has a different license fee set in statute.

CHAIR COGHILL commented that the population limits are based on an arcane formula that he needs to become familiar with.

[2:00:08 PM](#)

SENATOR SHOWER asked if the town of Valdez could have a second manufacturer. It currently has one and a population of 4,000.

MS. BRAWLEY said the limit currently is 1:3,000. The statute says 3,000 or part of 3,000 so a town of 4,000 people could have two brewery licenses. SB 76 grandfathers any existing brewery and any new applicant would be subject to the 1:9,000 limit. The existing brewery in Valdez could open a new manufacturing space, which is not subject to population limits. A tasting room would not be available unless the population increases.

SENATOR SHOWER asked if that could be appealed to the board or commissioner.

MS. BRAWLEY deferred the question to the Alcohol and Marijuana Control Office.

MS. BRAWLEY said that slide 17, *Proposed in SB 76: Volume Limits for Free Samples from Manufacturers*, demonstrates the volume limits for free samples. Currently the ounce limit for free samples is not defined in statute. The proposed ounce limits are generally specific to the alcohol equivalent for each product type.

[2:02:31 PM](#)

MS. BRAWLEY said that slide 18, *Proposed in SB 76: Multiple Retail License Options for Manufacturers* illustrates the different retail options for the manufacturing licensees. They could either get a specific manufacturer retail license or they could obtain an existing retail license. The slide provides an example for breweries but the same would apply for all three license types.

MS. BRAWLEY said slide 19, *Proposed in SB 76: Onsite Consumption Limits for Manufacturers, in Standard Product Units*, shows the proposed sales limits for on-site and off-site consumption. These are by product type and license type. The bill does not make substantive changes to the brewery and distillery retail

licenses. It does add ounce equivalents for winery retail, which are not currently defined.

She asked if there were any questions on the highlighted changes to licenses.

CHAIR COGHILL said he's heard some pushback on the Distillery Retail 3-ounce equivalent. He asked if that was debated during the process.

MS. BRAWLEY said there was some debate and the group opted to maintain the limits in current statute.

SENATOR WIELECHOWSKI asked if the bill fixes the issue of distilleries being able to serve mixed drinks.

MS. BRAWLEY said no; the issue came up after the review process was completed.

SENATOR WIELECHOWSKI asked if she would support amending the bill to include a fix for that issue.

MS. BRAWLEY deferred to the sponsor.

CHAIR COGHILL said he received a negative response when he asked the question but the committee should still ask him about that.

SENATOR COSTELLO asked how the ounce equivalents allowed for Distillery Retail place relative to other states.

MS. BRAWLEY said her recollection is that 3 ounces is high in the states that define an ounce limit. Some states do not define a limit other than a small, free sample.

[2:06:08 PM](#)

MS. BRAWLEY said slide 20, *Proposed in SB 76: Endorsements*, is a new concept. The idea is to provide more options for businesses in terms of the area they are able to serve or the activities they engage in. They are an add-on to existing licenses that could only be transferred with a license and would need to be renewed every two years. This also provides the legislature more options to address new business concepts without having to create a new license type.

CHAIR COGHILL asked if the ABC Board would authorize the endorsements.

MS. BRAWLEY said the ABC Board would review applications for the endorsements, but they would not create endorsements. They would be defined in statute.

She said that slide 21, *R-7 Create Endorsements*, is a summary of endorsements. The concept was used to reorganize and make more logical activities that businesses can currently do.

- Create endorsements as add-ons to licenses in Title 4
- Endorsements must be issued with a license, renewed biannually with the license, and cannot be transferred to a new location
- Endorsements are not population limited
- Convert some existing sections or activities into endorsements; create new endorsements

MS. BRAWLEY said that slide 22 lists the proposed endorsements. The package store sampling is new. The sectional summary provides information about whether or not they are new or in current law. For example, *[R-3] Package Store Sampling Endorsement* is new.

Slide 23, *Proposed in SB 76: Package Store Sample Limits* illustrates the sample amounts allowed by product type. Alaska law currently does not allow package stores to offer consumption on premises. This proposal would allow a package store to apply for an endorsement to provide small, free samples on their premises. The samples would be subject to ounce limits defined as: "Any combination of products, not to exceed the alcohol equivalent of any single product type." The sample limits by product are: beer or cider - 12 ounces; wine or mead - 6 ounces; and spirits - 1.5 ounces. The business would decide whether to operate this through a ticket system or menu.

[2:09:52 PM](#)

MS. BRAWLEY said that slide 24, *R-7 Standardize Permits*, does not propose major changes for permits currently defined in statute or regulation. A standard application process is proposed for permits:

- Define all permit types in statute, not only in regulation
- Fee for all permits is \$50 per event day
- Most permits listed are already in statute or regulation

- New permit: Tasting Event Permit, allowing a Package Store or Manufacturer to host an event on premises, in partnership with a BDL [Beverage Dispensary License]

SENATOR SHOWER asked if a town could apply for a one-day Tasting Event Permit for a July 4th celebration or if an existing license would be required.

MS. BRAWLEY said it is defined by permit type. Some are available only to current license holders of a specific type while others are available to nonprofit organizations or other entities.

MS. BRAWLEY said slide 25, *Proposed Permits*, shows proposed permits and whether they are currently in regulation or statute:

- R-7F | Beverage Dispensary Caterer's Permit (AS 04.11.230; 3 AAC 304.685)
- R-7G | Restaurant Caterer's Dining Permit (3 AAC 304.680)
- R-7H | Club Caterer's Permit (3 AAC 304.690)
- R-7I | Nonprofit Event Permit (AS 04.11.240)
- R-7J | Art Exhibit Permit (3 AAC 304.697)
- R-7K | Alcoholic Beverage Auction Permit (3 AAC 304.699)
- R-7L | Inventory Resale Permit (Retail Stock Sale License, AS 04.11.200)
- R-7M | Tasting Event Permit (proposed in SB 76)

MS. BRAWLEY highlighted that the Tasting Event Permit allows a package store or manufacturer to host a special tasting event on its premises in partnership with a beverage dispensary licensee to showcase their products. Six of these events per license is allowed each year.

CHAIR COGHILL commented that passage of the bill will have a huge impact on the existing codes.

MS. BRAWLEY agreed and added that she would address the implementation period later in the presentation.

She said that is the end of the permit recommendations.

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MS. BRAWLEY said slide 27, *Proposed in SB 76: Regulate Trade Practices*, illustrates another recommendation that impacts

licenses. Federal laws governing trade practices protect retailers from manufacturers or wholesalers unfairly influencing purchase decisions. Most states have implemented parallel state laws because the federal government lacks capacity for enforcement. Also, federal law does not regulate trade practices for breweries. That regulation is left to the states. Examples of trade practices are:

- Tied House - Partial ownership of retail license by a manufacturer or wholesaler to control what products are sold or exclude competitors. This does not apply to 100 percent manufacturer-owned licenses.
- Exclusive Outlet - An agreement between a supplier and retailer to exclude other retailers or suppliers.
- Commercial Bribery - The supplier pays a bonus or provides merchandise in exchange for exclusive arrangement or agreement not to purchase other products.
- Consignment Sales - A supplier and retailer make deals to take back unsold products .

SB 76: section 77, 04.16.017

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MS. BRAWLEY said that slide 28, *P-3. Retire Public Convenience Process; New Options for REPLs*, lists the recommendations for Public Convenience Licenses:

- Repeal Public Convenience statute.
- Convert all existing Public Convenience restaurant licenses to standard restaurant licenses. They are fully transferrable and subject to population limits with grandfathering.
- Create a Seasonal Restaurant Tourism License.
- Allow qualifying municipalities, first class cities, or unified municipalities to petition the ABC Board to increase the number of REPLs available in their community.

SB 76: Section 9, 04.09.210, .350; Sections 46-48, 04.11.405; Transition

MS. BRAWLEY said slide 29, *Public Convenience Petition Process: Current Title 4*, illustrates the current Public Convenience process in Title 4. The process involves gathering signatures on a petition and submitting the petition and application to the ABC Board. There is no definition of public convenience in statute, so there isn't clear guidance on whether a license

would serve public convenience. If the ABC Board grants the license, a new restaurant license can be issued without regard to population limits.

MS. BRAWLEY said slide 30, *Proposed in SB 76: Local Government Petition for Additional Restaurant Licenses*, illustrates another Public Convenience License replacement. Instead of allowing for individual applications to be considered outside of population limits, first-class cities and unified municipalities will have the ability to petition the ABC Board for an additional number of restaurant licenses. They need to demonstrate they have the enforcement capability to manage any potential impacts from those licenses and that they have sufficient non-resident population to support a market for that type of license. If the ABC Board approves the petition and grants new licenses, the city cannot petition again for 10 years. If the petition is not granted, the city can return with a revised petition.

SENATOR SHOWER asked how the five-year limit applies, and if the appeal process goes from the board to the commissioner.

MS. BRAWLEY said the language in the bill says 10 years if the restaurant licenses are granted. If the permit is denied, there is no limit on the ability to repetition. This system doesn't exist in statute now, so there is no associated appeal process. There is an appeal process for a denied or revoked license.

MS. BRAWLEY said slide 31, *N-7. Allow Relocation of a Package Store from Borough to City*, is about a change to a mechanism in current law allowing relocation of an existing bar license or package store:

- Amend AS 04.11.400(k) to allow transfers of both BDL and Package Store licenses from a borough to a city within the borough.
- Currently, BDL relocations are allowed in boroughs with at least 60,000 population.
- SB 76 would make relocation available in boroughs with at least 50,000 population and currently operating licenses that exceed population limits.

MS. BRAWLEY said slide 32, *Proposed in SB 76: Option to Relocate Some Licenses from a Borough to a City*, illustrates this concept. Licenses in a borough could be relocated from one community to another.

Slide 33, *Proposed in SB 76: Option to Relocate Some Licenses from a Borough to a City*, shows how many licenses would be available currently for each of the three boroughs that would qualify under this system. Only the borough's licenses in excess of the population limits would be eligible for relocation into a city. The purpose of that is to ensure that the population of the borough continues to be served by sufficient licenses.

She said this concludes the recommendations regarding licensing.

MS. BRAWLEY said the next few recommendations relate to the powers and duties of the ABC Board.

Slide 34, *RB -4 ABC Board as Key Partner for Alcohol Education Efforts*, makes explicit that part of the board's mission would be to provide education about Title 4.

- Designate the ABC Board and AMCO as the agency to develop a multi-department, public-private sector education plan about responsible alcohol use and applicable laws.
- Coordinate the ABC Board and AMCO as the agency to develop a multi-department, public-private sector education plan about responsible alcohol use and applicable laws.

SB 76: section 1, 04.06.075; section 5, 04.06.090

MS. BRAWLEY said slide 35, *RB -2. Community Analysis of Written Order Database*, lists the duties and obligations associated with the database that is overseen by the ABC Board:

- Allow data about direct shipment orders of alcohol in local option communities to be made publicly available, aggregated at the region or community level for analysis and community planning.
- Written order database can only be accessed by AMCO enforcement staff, other law enforcement, and package store licensees who fill written orders.
- Personal information would be kept confidential.

SB 76: sections 6-7, 04.06.095

Slide 36, *Proposed in SB 76: Publish Community-Level Data in Local Option Order Database*, illustrates how the Local Option Order Database is treated currently and as proposed in the bill:

- In Current Title 4, all data in the Local Option Order Database is private and is deleted after one year.
- SB 76 would keep individual order information private, but retain aggregate data for 10 years and allow the ABC Board to publish annual total sales volumes by region or community.
- This valuable information would be available to communities and law enforcement to understand the flow of alcohol into local option communities via legal sales.

SB 76: sections 6-7, 04.06.095

SENATOR SHOWER asked what is the intended use of that data.

MS. BRAWLEY said it's knowing how much alcohol is coming into a community. The data is already being collected and the proposal was to make better use of that information.

SENATOR SHOWER said he'd need to think about that.

CHAIR COGHILL said there's been an ongoing debate in the legislature about local option and how to have a dry community. It's easier in the rural areas than in urban areas. He commented that even the aggregated data could contain sensitive information.

MS. BRAWLEY said that the next recommendation is to look at the penalties defined in Title 4. Currently, almost all of the Title 4 penalties are class A misdemeanors. This ranges from serious offenses such as selling without a license to not filing paperwork correctly.

RB-6. Revise Title 4 Penalties

- Review penalties for all Title 4 sections, and revise as needed to make penalties proportionate to the offense, and more consistently enforced.
- Reduce most current Class A Misdemeanors to Minor Offenses.
- Retain existing Misdemeanor and Felony charges for serious offenses, particularly those causing harm to children.
- Ensure that the ABC Board, and licensee if applicable, is informed about Title 4 convictions by requiring the court to send records to AMCO, and AMCO to send to the licensee.

- ABC Board retains its authority to impose conditions or additional penalties, including suspending or revoking license.
- See Appendix, Table 3, pp. 67-72 in Report for table of all current penalties and proposed changes.

SB 76: defined throughout; most prohibited acts are defined in chapter 16

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CHAIR COGHILL said the members will be interested in looking at the penalties individually and discerning the effectiveness of a misdemeanor versus a fine that could have an economic impact.

MS. BRAWLEY noted the last bullet points to the table with the current penalties and proposed changes.

MS. BRAWLEY said slide 38 addresses the rationale for reducing penalties in Title 4. The stakeholder group looked at the charges from 2009 to 2013 and found that a lot of cases were dismissed. They also found that the Title was not being consistently enforced. The rationale was to improve enforcement of Title 4 by making lower level offenses more automatically enforced and keeping more serious offenses at the current level. She noted that Minor Consuming offenses was dealt with in a different bill.

CHAIR COGHILL said offenses of minor consuming will be a future topic of discussion. His intention is to make sure that bad actors can't easily co-opt children.

MS. BRAWLEY said slide 39 highlights the general penalties for each offense class. She pointed to the report for the specifics.

She said that concludes the recommendations related to the powers of the board. The penalty recommendations cross multiple sections of the bill.

CHAIR COGHILL said his primary focus for the committee is the penalties.

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MS. BRAWLEY said the next recommendations related to underage drinking and internet sales of alcohol. Slide 40 looks at the effectiveness of current penalties and alternatives.

UAD-1. Employee Penalty for Selling Alcohol to a Minor

- Reduce the penalty for a licensee, agent or employee selling alcohol to a minor (AS 04.16.052) from a Class A Misdemeanor to a Minor Offense with \$500 fine.

**UAD-2. Licensee Liability for Employee Sales to Minors N-9.
Licensee Liability for Overservice by Employees**

- Increase the consistency and certainty of sanctions to licensees for violations of AS 04.16.030 and -052.
- A licensee whose employee incurs either violation receives an administrative penalty of \$250.

SB 76: section 81, 04.16.030; section 94, 04.16.052

CHAIR COGHILL said the level of the penalty is one thing, but the mental state is another. He asked if the person serving the alcohol would automatically lose their TAM Card as part of the penalty.

MS. BRAWLEY said she didn't know.

She said slide 41 illustrates the licensee penalties for overserving an adult or serving a minor.

MS. BRAWLEY said the next recommendation is something that was enacted in 2016 for Minor Consuming Alcohol and Minor on Premises. SB 76 proposes a similar system:

UAD-5. Minor Consuming Alcohol (MCA) and Related Violations

- Enacted in 2016: Restore Minor Consuming Alcohol (AS 04.16.050) to a true violation; same changes to Minor on Premises (AS 04.16.049), previously Misdemeanor A.
- Proposed in SB 76: similar changes to penalties for Minor Purchasing or Attempting to Purchase (04.16.060).
- Similar to already enacted changes above, youth charged with 04.16.060 would not appear in CourtView.

SB 76: section 98, 04.16.060

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MS. BRAWLEY said slide 43 deals with server education:

Require Server Education Card for All Retail Sales & Service of Alcohol

- Server education includes training in verifying age and identification, responsible alcohol service, overserving, and applicable penalties for violations.
- Some, but not all, license types are required that servers (employees) have alcohol server education cards. Also not required for servers at permitted events.
- Proposed in SB76: Require all license types who serve the public, including sampling activities, to maintain server education cards.
- Require servers for permitted events to be certified prior to the actual event.

SB 76: sections 125, 126, 127; 04.21.025

MS. BRAWLEY said the next recommendation applies to keg registration.

UAD-3. Statewide Keg Registration

- Require all beer kegs purchased in the state to be registered (and tagged with customer's name).
- Law enforcement who confiscate a keg at an underage party can determine who legally purchased the keg and hold adults responsible for furnishing alcohol to minors.
- Modeled on existing laws in Anchorage and Juneau.
- Applies to kegs (containers) 4 gal. or larger.
- Licensee keeps customer information about keg purchase on file for a period of time.
- Purchaser can be fined for removing tag on a full keg.

SB 76: section 122, 04.21.012

MS. BRAWLEY said Alaska is one of the few states that has no rules about internet sales of alcohol. Anyone can order alcohol online from an out-of-state business and have it delivered to their house. It is up to the business to check ID. The proposal in SB 76 would regulate these sales. Slide 45 illustrates that there are more rules on in-state businesses than out-of-state businesses in this regard.

Internet Sales in Alaska: Few Rules

- Alaska Package Stores cannot sell alcohol online, only via written order to "known" customers with ID on file.
- Alaska Wineries and Package Stores can ship wine to customers in some circumstances.
- Without state laws restricting online sales, there are currently no limits on purchases of alcohol online from out-of-state sellers.

MS. BRAWLEY said slide 46 introduces the Winery Direct Shipment License.

- Create a license available to U.S. wineries to ship orders of wine to Alaska customers.
- Prohibit online sales through this license in Local Option areas.
- Prohibit other online sales of alcohol not under this license or the Package Store Shipping endorsement.
- Modeled on similar licenses or permits for wineries that exist in 44 other states.
- Requires age verification and delivering to the customer in person, including a signature to acknowledge receipt.
- Exempt from Alaska population limits.

SB 76: (Chapter 9) section 9, 04.09.360; section 79, 04.16.022

Slide 47 illustrates how the regulation of internet sales would work.

Slide 48 highlights that the bill would allow collection of excise tax on internet sales.

INT-2. Collect Alaska Excise Tax for Internet Sales

- In addition to maintaining current collection of excise tax on sales from in-state wineries, require all out-of-state holders of a Winery Direct Shipment license to pay the same excise tax on Alaska orders.
- Currently, no tax is collected from online sales of alcohol to Alaska customers.
- Legal precedent for collecting state alcohol tax from out-of-state alcohol manufacturers: *Granholm v. Heald (2005)*

SB 76: section 146; 43.60.060

Slide 49 relates to package store shipping options

N-3. Expand Package Store Shipping Order Options

- Allow orders under a Package Store Shipping endorsement to be received in formats other than a written order from a known customer.
- This allows online ordering from in-state package stores, including customers in Local Option areas.
- Existing requirements in AS 04.11.150(a) for ID, shipping and delivery still apply. Package stores would still be required to report all orders to Local Option areas in Written Order Database.

*SB 76: Section 9, 04.09.460; Section 105, 04.16.125
for common carrier rules*

Slide 50, *Proposed in SB 76: Regulate Internet Alcohol Sales*, illustrates the ABC Board's duties related to common carrier transport and delivery of alcohol.

- Common carriers would need to be approved by the ABC Board to transport and deliver alcohol to consumers throughout the state.
- Carriers must demonstrate that they have policies and train employees to properly handle shipments of alcohol.
- It would be the licensees' responsibility to work with approved carriers for shipments to Alaska.

MS. BRAWLEY said this concludes the presentation.

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CHAIR COGHILL said he appreciates that the alcohol must be delivered to a person He asked what procedure carriers follow if they can't find the person receiving the package.

MS. BRAWLEY suggested FedEx and UPS answer the question; they have their own existing policies.

SENATOR WIELECHOWSKI commented that this is a heavy lift considering this is day 86 [of the 90-day legislative session]. He asked how this regulatory scheme compares to the alcohol laws and regulations in other states.

MS. BRAWLEY said that's difficult to answer because states do things differently.

SENATOR WIELECHOWSKI asked if she had a sense for how the bill would impact alcohol abuse in the state.

MS. BRAWLEY replied a goal of the project is to address alcohol abuse in Alaska. Changing business laws alone won't achieve that, but the more logical the laws the easier it will be for businesses and customers to operate responsibly. The rules about service of alcohol are intended to have a beneficial impact.

SENATOR WIELECHOWSKI said he wonders if less regulation might be more beneficial; it doesn't sound like there is any statistical information on whether the bill proposes a heavier or lighter touch than the laws in other states.

MS. BRAWLEY said the group looked at evidence-based best practices and several are incorporated in the proposal. These include keg registration, holding licensees responsible for what happens on their premises, and population limits.

CHAIR COGHILL said the booklet, *Recommended Changes for Statutory Change* is a good description of the process the stakeholder group went through. He recommended it be posted online. He asked if the group discussed the benefit of a monetary penalty versus a misdemeanor penalty for an individual who furnishes alcohol to a minor.

MS. BRAWLEY said the discussion the stakeholder group had was that there would be a significant monetary impact on an individual. The bill proposes a minor offense with a \$500 fine. It would not impact other related charges.

CHAIR COGHILL said he'll look at that penalty closely and have a conversation with law enforcement on how that is applied.

SENATOR SHOWER asked if a first-class or home rule city could opt out of license requirements and do it locally.

MS. BRAWLEY said it would be a change to the current system. Current law says only the ABC Board can issue, transfer, renew, suspend, and revoke licenses.

SENATOR SHOWER asked her thoughts on an amendment to allow a community to ask for more licenses after 3 years versus 5 years.

MS. BRAWLEY said the city would primarily be impacted by making more frequent requests.

SENATOR SHOWER said the MatSu is growing and there has been some concern about limiting economic growth when the population is increasing so rapidly.

CHAIR COGHILL asked her to review the implementation provisions.

MS. BRAWLEY said most of the bill, including most of the licensing and penalty changes, would take effect January 1, 2020. The ABC Board has the ability to draft regulations to implement the bill provided they do not take effect before the bill takes effect. A few provisions, such as the repeal of public convenience and the replacement aspects that were discussed, take effect immediately. There are also a few sunset provisions for licenses that don't fit current statutory definitions.

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At ease

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CHAIR COGHILL reconvened the meeting and asked Ms. Brawley to discuss the penalty provisions.

MS. BRAWLEY asked members to turn to page 13 of the sectional analysis. She explained that most penalties in Title 4 are currently class A misdemeanors. The sections that are not clearly defined as a misdemeanor or felony are reduced to minor offenses with a \$250 fine.

Chapter 16. Regulation of Sales and Distribution.

Pages 79-97

Section 73 - Hours of sale and presence on licensed premises (standard closing hours)

AS 04.16.010(c) is amended to allow a person to be on the licensed premises outside of the hours of sale to conduct business with the licensee, maintenance, or improvements, common carrier licensees, and adds restaurant endorsement reference.

Section 74

AS 04.16.010 adds a penalty for violating the section.

Section 75 - Pricing and marketing of alcoholic beverages

AS 04.16.015(a) exempts sampling endorsements and defines week as seven days.

Section 76

AS 04.16.015 adds a penalty for violating the section.

Section 77 - Trade practices

AS 04.16.017 new section that specifies which illegal trade practices cannot be practiced by manufacturers or wholesalers and directs the board to adopt regulations defining exceptions to those rules as well as administrative penalties for violations.

CHAIR COGHILL said those regulations would be forthcoming.

MS. BRAWLEY said yes.

She continued to review the penalty provisions.

Section 78 - Solicitation of alcoholic beverages; purchase on behalf of another

AS 04.16.020 sets penalty for unauthorized solicitation or purchase of alcoholic beverages.

Section 79 - Online sale and purchase of alcoholic beverages

AS04.16.022 new section prohibiting online purchase and sale in Alaska unless the licensee has a winery direct shipment license or package store shipping endorsement. It also defines the penalties. [She noted the penalties are different for a business selling versus a person purchasing.]

Section 80 - Illegal presence on premises involving alcoholic beverages

AS 04.16.025(a) adds statutory references to all penalties involving sale without a license. [She noted that current statute has one penalty that says it is illegal to sell or manufacture without a license. The bill breaks this out into multiple penalties that are specific to unauthorized manufacture or sale or unauthorized retail or sale.]

SENATOR WIELECHOWSKI referenced subsection (b) in Section 79 and questioned how many people would check to see if the person they were purchasing from held either a winery direct shipment license issued under AS 04.09.360 or a package store shipping endorsement under AS 04.09.460. He asked if it was common to punish the purchaser in that situation.

MS. BRAWLEY said she didn't know about enforcement in other states, but she understands that out-of-state businesses that operate this way are diligent about checking whether they can serve somebody in another state.

SENATOR WIELECHOWSKI asked if the standard for guilt in this situation would be a knowing standard.

MS. BRAWLEY deferred the question to the Department of Law.

CHAIR COGHILL said he wanted to highlight the penalties today and the Department of Law could discuss them more thoroughly at a later date.

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MS. BRAWLEY continued to review the penalties in the sectional.

Section 81 - Prohibited conduct relating to drunken persons

AS 04.16.030 changes the existing penalty for prohibited conduct relating to a drunken person, adds an administrative penalty to the licensee if the employee is convicted of a violation of this section, and adds misdemeanor penalty for the licensee who knowingly allows employees to violate this section.

CHAIR COGHILL commented that this section adds a penalty for a licensee who knowingly violates this section.

MS. BRAWLEY said yes. The concept in AS 04.16.150 that says licensees are responsible if they knowingly allow any illegal activity on their premises, is added to this section.

SENATOR WIELECHOWSKI read the first sentence in the proposed subsection (e) in Section 81. He asked if it means the holder of the license is strictly and vicariously liable for any damages that may be caused in addition to the \$250 administrative penalty or if the penalty is limited to just \$250.

MS. BRAWLEY deferred the question to the Department of Law.

CHAIR COGHILL said he would flag that question for the Department of Law.

MS. BRAWLEY continued to review the penalties in the sectional.

Section 82 - Possession of ingredients for homebrew in certain areas

AS 04.16.035 changes the statutory reference from one specific local option area to all local option areas, consistent with AS 04.21.025 restricting private manufacture of alcohol in all local option areas.

Section 83

AS 04.16.035 maintains the current penalty for possession of ingredients for homebrew.

SENATOR WIELECHOWSKI asked what areas this relates to.

MS. BRAWLEY said it's any local option community that has held an election to either limit sales or limit sales and importation or limit sales, importation, and possession of alcohol.

SENATOR WIELECHOWSKI commented that the existing law seems to broadly prohibit the possession of ordinary household items.

MS. BRAWLEY said it is her understanding that, depending on the circumstances of the case, somebody who keeps yeast in their house would not necessarily be considered possessing with the intent to homebrew.

Section 84 - Access of drunken persons to licensed premises

AS 04.16.040 rewords language relating to licensed premises.

Section 85

AS 04.16.040 relocates and changes penalty for prohibited access by a drunken person to licensed premises. [She clarified that this relates to the drunken person, not the licensee.]

Section 86 - Obligation to enforce restrictions in licensed premises

AS 04.16.045 relocates and changes penalty for permitting consumption not authorized under a license.

Section 87 - Access of persons with restriction on purchasing alcohol

AS 04.16.047 adds a reference to a penalty for entering and remaining on licensed premises defined in AS 04.16.160.

CHAIR COGHILL clarified that he only wanted Ms. Brawley to review the penalty sections.

Section 93

AS 04.16.051 changes penalties for furnishing or delivering to a minor by a person, maintains one C felony charge for situations where a minor is given alcohol and causes serious injury or harm but removes C felony for the offense of serving a minor in a Local Option area, consistent with change in Section 61.

CHAIR COGHILL said he would look at that section closely because some people groom minors with alcohol.

MS. BRAWLEY continued to review the penalty sections.

Section 94 - Furnishing of alcoholic beverages to person under the age of 21 by licensees

AS 04.16.052 changes penalties for furnishing or delivering to a minor by a licensee or employee, adds administrative penalty to licensee if employee is convicted of a violation of this section and shifts

misdemeanor penalty in AS 04.16.150 to licensee who knowingly allows employees to violate this section.

Section 95 -Room rental for purposes of consuming alcoholic beverages

AS 04.16.055 changes the penalty for renting a room for the purpose of providing alcoholic beverages to a person under 21 years of age.

Section 96 - Permitting minor to illegally possess liquor in a dwelling

AS 04.16.057(b) maintains current violation for allowing a minor to possess alcohol in a dwelling and adds a \$500 fine.

Section 98

AS 04.16.060 defines penalties for purchase by a person under 21 years of age and delivery to a person under 21 years of age. For persons under 21, adds similar penalty structure as those in AS 04.16.049 and AS 04.16.050, \$500 fine for violation with option to reduce fine to \$50 if youth completes treatment or community diversion panel. [She noted that if the person is 21 years or older, it would be a minor offense with a \$500 fine.]

Section 100

AS 04.16.080 sets the penalty for consuming at a school event.

Section 102

AS 04.16.090 defines the crime of maintaining a bottle club, relocates and maintains current penalty.

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SENATOR WIELECHOWSKI asked if the definition of school event in Section 100 would include a school fundraiser at a private restaurant.

MS. BRAWLEY said her understanding is it would be an event that is held on school grounds.

SENATOR WIELECHOWSKI requested further clarification on that point.

CHAIR COGHILL flagged the question.

MS. BRAWLEY continued to review the penalty sections.

Section 103 - Sale of certain alcoholic beverages prohibited

AS 04.16.110 defines sale of a prohibited alcoholic beverage, relocates and maintains [the misdemeanor] penalty.

Section 104 - Removal or introduction of alcoholic beverages

AS 04.16.120 defines removal or introduction of alcoholic beverages, sets penalty and exemptions. [This is reduced to a minor offense.]

Section 105 - Alcoholic beverages transported by common carrier

AS 04.16.125 repeals and reenacts the section. Allows for delivery to a person over the age of 21 with signature from an order filled by a package store or winery direct shipment licensee only by an approved carrier, requires board to review carrier policies and publish list of approved carriers, and removes some detailed language for delivery to a local option area. Maintains penalty for unauthorized transportation of alcoholic beverages by common carrier into a local option area and makes noncompliance a violation. [An unapproved carrier who delivers alcoholic beverages would be subject to \$500 fine. It would be a \$250 fine if a carrier is approved but does not comply.]

Section 106 - Stock confined to licensed premises

AS 04.16.130 sets penalty for unauthorized storage of alcoholic beverages. 17

Section 107 - Sale or consumption of alcoholic beverages in a warehouse

AS 04.16.140 sets penalty for consumption or sale of alcoholic beverages in a warehouse

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SENATOR WIELECHOWSKI asked what constitutes unauthorized storage in Section 106.

MS. BRAWLEY advised that it is any place that is not designated as a licensed premises because storage of alcoholic beverages must be on a designated licensed premises.

SENATOR WIELECHOWSKI referenced Section 105 and asked if a person who is driving from the Lower 48 to Alaska would violate the provision of transporting alcohol into the state if they were not registered and had a bottle of beer in their car.

MS. BRAWLEY said she didn't believe this covers that situation.

SENATOR WIELECHOWSKI asked for clarification from the Department of Law.

CHAIR COGHILL flagged the question for the Department of Law.

MS. BRAWLEY continued to review the penalty sections.

Section 108 - Licensee responsible for violations

AS 04.16.150 changes the penalty for failure to ensure compliance [to a minor offense with a \$250 fine. The exceptions would be the sections relocated to those relating to serving a minor.]

Section 109 - Restriction on purchasing alcoholic beverages

AS 04.16.160 maintains current [misdemeanor] penalty for failure to comply with a restriction on purchasing alcoholic beverages.

Section 110 - 111 - Source of alcoholic beverages

AS 04.16.170 exempts winery direct shipment license and maintains current penalty for sale of alcoholic beverages from or to an unlicensed person.

Section 112 - 113 - Restrictions on purchase and sale of alcoholic beverages

AS 04.16.172 renumbers cross-references to license types and maintains current penalty for licensee obtaining alcoholic beverages from an unlicensed seller.

Section 114 - Furnishing alcoholic beverages in aid of gambling enterprise

AS 04.16.175 maintains current [misdemeanor] penalty for the crime of furnishing an alcoholic beverage in aid of a gambling enterprise. [She noted that situation is not on a licensed premises so it's not a licensee.]

Section 115 - Penalties for violation

AS 04.16.180(b) adds statutory references to prohibited conduct related to drunken persons and furnishing alcoholic beverages to persons under the age of 21 by licensees. [She noted that this section is the penalties the ABC Board can apply to licensees.]

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At ease

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CHAIR COGHILL reconvened the meeting and asked Senator Micciche's staff, Rachael Hankey, to continue the sectional summary of SB 76, starting with Chapter 21 keg registration.

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RACHAEL HANKE, Staff, Senator Peter Micciche, Alaska State Legislature, Juneau, Alaska, reviewed the following sections of SB 75 on behalf of the sponsor.

Chapter 21. General Provisions.

Pages 97-104

Section 122 - Keg registration

AS 04.21.012 adds new section establishing a keg registration process including proof of age, registration form requirements, identification tags, and establishes the penalty for possession and sale of alcoholic beverages in an unregistered keg. [She noted

the penalty for the licensee is a \$250 fine. The fine for a person possessing an unregistered keg containing alcohol is \$100.]

Section 123 - 124 - Civil liability of persons providing alcoholic beverages

AS 04.21.020(a) renumbers cross-references.

Section 125 - Alcohol server education course

AS 04.21.025(a) repeal and reenact section to list license types that do not require server education training: only licenses not serving the public are exempt from requirement. [She noted the penalty is reduced from a class A misdemeanor to a minor offense.]

Section 126

AS 04.21.025(b) adds reference to permit holders and individuals listed on an application as servers for a permitted event.

Section 127

AS 04.21.025(c) adds reference to permit holders and requires servers listed on the permit application to have a current alcohol servers card by the first event day.

CHAIR COGHILL said he understands that those penalties will be followed by regulation.

MS. HANKE replied it falls under the alcohol server education course in AS 04.21.025.

Section 128

AS 04.21.025 defines the offense of failure to comply with alcohol server education requirements and sets penalty.

Section 129 - Proof of age and of not being restricted from purchasing alcoholic beverages

AS 04.21.050(a) renumbers cross-reference.

Section 130 - Warehousing of alcoholic beverages

AS 04.21.060 defines the offense of unauthorized warehousing and establishes penalty. [She noted the penalty is reduced from a class A misdemeanor to a minor offense.]

SENATOR COSTELLO asked if warehousing is defined.

MS. HANKE deferred the question to Erika McConnell to say whether or not a definition was in regulation.

Section 131 - Posting of warning signs

AS 04.21.065(a) updates list of license types that require warning signs. [She noted this remains a minor offense with a fine of \$20 to \$300 per day depending on the situation.]

Section 132

AS 04.21.072. Fines and other criminal penalties. New section which sets penalties for other violations, misdemeanors, or felonies unless otherwise specified.

AS 04.21.074. Bail forfeiture schedule. Directs the supreme court to set a bail schedule for Title 4 violations.

AS 04.21.076. Suspension of fine or sentence. Prevents the court from suspending fines or sentences for minor offenses.

Section 133 - Court records of persons under 21 years of age

AS 04.21.078 adds additional statutory reference to violations of AS 04.16.060.

Section 134 - Definitions

AS 04.21.080(b)(6) adds reference to permit holders and license holders.

Section 135

AS 04.21.080(b)(15) adds endorsements.

Section 136

AS 04.21.080(b) adds definitions.

MS. HANKE said the following are changes to other various titles.

Amendments to Various Other Titles.

Pages 104-109

Section 137 - Definitions

AS 05.15.690(48) renumber beverage dispensary license reference and update "bar" definition.

She noted she was moving out of the penalties.

Section 146 - Winery direct shipment tax; statement; audit

AS 43.60.060 establishes tax collection on direct wine shipments from out of state businesses holding this license and outlines requirements for the Department of Revenue.

CHAIR COGHILL observed that the penalty would be in regulation.

MS. HANKE clarified that this is a new concept. Most of the licensees would be out-of-state and the penalties would be minor offenses.

SENATOR COSTELLO asked if the bill had a fiscal impact.

MS. HANKE replied new revenue is generated by the bill and the fiscal notes are posted online.

SENATOR COSTELLO said she didn't believe the bill had a finance referral.

MS. HANKE agreed.

CHAIR COGHILL said he'd think about that. He asked Ms. Hanke to ensure that the Department of Law and the Alcoholic Beverage Control Board were available for the hearing on Friday.

[3:25:22 PM](#)

CHAIR COGHILL held SB 76 in committee for further consideration.

HB 307-MILITARY JUSTICE & MILITIA CIVIL RELIEF

[3:26:19 PM](#)

CHAIR COGHILL announced the consideration of HB 307. [CSHB 307(JUD) was before the committee.] He noted who was available to answer questions.

[3:27:15 PM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, Juneau, Alaska, sponsor of HB 307, introduced the bill speaking to the following sponsor statement:

In an effort to continue to modernize and update the Alaska Military Code, House Bill 307 provides statutory changes to incorporate recent updates from the federal Uniform Code of Military Justice (UCMJ) and Servicemembers Civil Relief Act (SCRA).

In 2016, Alaska's military command worked with the legislature to pass the Alaska Code of Military Justice (ACMJ) to provide greater ability to pursue and prosecute those servicemembers who violate military rules and protocols. House Bill 307 is a continuation of those efforts.

House Bill 307 would update crimes recognized by the UCMJ, establish a procedure within the code of military justice for a service member who commits a sexual offense to register as a sex offender or child kidnapper, update offenses that are subject to court-martial proceedings and update consumer protections for service members.

In close and continuing consultation with the Department of Military and Veterans Affairs, we are continuing our efforts to guaranteeing the safety of Alaskans and the security of our law-enforcement procedures.

Updating the ACMJ regularly is a critical response to the always-evolving military justice system, and vital to maintaining good order and discipline in the Alaska Organized Militia, so it is timely and necessary that we pass HB 307. I urge your support of this legislation.

REPRESENTATIVE TUCK advised that the Uniform Code of Military Justice (UCMJ) has been around in some form since 1775. Most states try to adhere to that code so that service members know what to expect when they transfer from one state to the next. Including the Service Contract Act in the code also helps service members who are protecting the nation.

[3:29:26 PM](#)

CHAIR COGHILL asked if the National Guard Bureau supports this for active duty members.

REPRESENTATIVE TUCK said yes and they also worked with the Alaska Command to make sure that it fits with the Alaska Constitution.

CHAIR COGHILL asked Kendra Kloster to walk through the sectional.

[3:30:13 PM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, Juneau, Alaska, said HB 307 reflects the recent updates to the federal Uniform Code of Military Justice. She delivered the sectional analysis speaking to the prepared document.

MS. KLOSTER noted that Sections 1-5 ensure that sex offenses committed under the military code are reflected under Title 12. The idea is that sex offense under the military code are reported to the Department of Public Safety (DPS) so the individual is added to the state's sex offender registry.

Section 1. Amends AS 12.63.100(1) to include within the definition of aggravated sexual offense an offense under AS 26.05.890 if the person engaged in or attempted to engage in sexual penetration and an offense under AS 26.05.893 if the prohibited sexual activity in which the militia member engaged or attempted to engage in sexual penetration.

Section 2. Amends AS 12.63.100(2) to include within the definition of child kidnapping an offense, attempt, solicitation, or conspiracy to commit an offense under AS 26.05.935(b) if the member of the militia commits an enumerated offense of kidnapping punishable under Article 134 of the Uniform Code of

Military Justice (UCMJ) and the victim was under 18 years of age at the time of the offense.

Section 3. Amends AS 12.63.100(6) to include within the definition of sex offense indecent exposure under AS 26.05.900(c) and other qualifying conviction under AS 26.05.890 and 26.05.893 as specified.

Section 4. Amends AS 12.63.100 by adding new paragraphs that define "sexual contact" and "sexual penetration" to have the same meaning as given these terms in AS 11.81.900.

Section 5. Amends AS 18.65.087(a) to include a court judgment that the Department of Public Safety receives from the Department of Military and Veterans Affairs for convictions under AS 26.05.890(h), 26.05.893(d), 26.05.900(e), or 26.05.935(d) as information for the sexual offender registry.

Section 6. Amends AS 26.05.135 to extend the benefits of the Service members Civil Relief Act, especially those pertaining to consumer transactions, to all members of the Alaska Organized Militia (AOM), i.e., the Alaska Army National Guard, the Alaska Air National Guard, the Alaska Naval Militia, and the Alaska State Defense Force.

Section 7. Amends AS 26.05.135 by adding new subsections: (b) allowing Service members to terminate of certain contracts for consumer services if ordered to relocate; (c) directing that Servicemembers must furnish service providers with written notice of contract termination and written proof of relocation orders; (d) allowing Servicemembers to reinstate terminated contracts upon separation from the AOM; (e) prohibiting service providers from charging a Service member for terminating a contract and releasing Servicemembers from any payment obligation after the termination; and (f) defining militia members as members of the AOM, and the organized militia as including the Alaska (Army and Air) National Guard, Alaska Naval Militia, and Alaska State Defense Force and defining servicemember of the armed forces of the United States or a member of the organized militia of the state.

CHAIR COGHILL asked how Section 7 works in practice.

MS. KLOSTER said that when service members are deployed they can notify businesses so they won't be placed in default on bills or contracts while they are away. If they do go into default, they have civil recourse. She deferred further explanation to Bob Doehl.

[3:33:06 PM](#)

BOB DOEHL, Deputy Commissioner, Department of Military & Veterans Affairs (DMVA), Anchorage, Alaska, explained that the person who is deploying notifies relevant vendors or businesses that they are invoking their rights under the Civil Service Relief Act. If a military member finds they are in default when they return, DMVA encourages them to contact the vendor or business to resolve the differences. If necessary something similar to the Employer Support of the Guard and Reserve process assists the businesses in understanding their rights and obligations.

MS. KLOSTER continued the sectional analysis for HB 307.

Section 8. Amends AS 26.05.380 (b) by striking language reserving Servicemembers' ability to reject non-judicial punishment and opt instead for court-martial, essentially restoring the "no turn-down" clause proposed in the original ACMJ update of 2015-16.

Section 9. Amends AS 26.05.555 to reflect additional language in the amended Rules for Courts-Martial 201 (c) that provides judges may hold a person in contempt of court for willfully disobeying a court-martial order or creating a disturbance during proceedings.

Section 10. Amends AS 26.05 to add a new section AS 26.05.697 making failing to reveal or concealing from authorities serious offenses committed by others, and militia members committing these offenses subject to punishment as courts-martial may direct.

Section 11. Amends AS 26.05.700 to allow an accused to be found guilty of lesser offenses necessarily included in offenses charged or of attempts to commit either, regarding offenses designated by the President in an appendix to the 2017 Manual for Courts-Martial.

Section 12. Amends AS 26.05.715 to add a new subsection (c) prohibiting a member of the militia from soliciting or advising another person to commit an offense under this chapter, and making militia members committing such offenses subject to punishment as courts-martial may direct.

Section 13. Amends AS 26.05 by adding new section AS 26.05.737 prohibiting militia members from wrongfully manipulating, creating, using, selling, or otherwise falsifying official identifications, passes, permits, or certificates and making militia members committing these offenses subject to punishment as courts-martial may direct.

Section 14. Amends AS 26.05.740 to specify intentionally or wrongfully jumping into the water from a vessel in use by the armed forces so as to miss a transportation movement required by duty is an offense and a militia member committing such an offense is subject to punishment as a court-martial may direct.

Section 15. Amends AS 26.05 by adding new section AS 26.05.767 describing impersonation of officers, non-commissioned officers, petty officers, agents, or officials, and AS 26.05.768 designating wearing unauthorized insignias, decorations, badges, ribbons, devices, or lapel buttons as offenses, and militia members committing these offenses are subject to punishment as courts-martial may direct.

Section 16. Amends AS 26.05 by adding new section AS 26.05.785 designating a militia member who engages in inappropriate release of a prisoner or unlawfully drinking an alcoholic beverage with a prisoner is subject to punishment as a court-martial may direct.

Section 17. Amends AS 26.05 by adding new section AS 26.05.793 making wrongful interference with an adverse administrative proceeding an offense, and a militia member committing such an offense subject to punishment as a court-martial may direct.

Section 18. Amends AS 26.05 by adding new section AS 26.05.796 designating a militia member engaging in wrongful refusal to testify to an official military

proceeding as subject to punishment as a court-martial may direct. Adds a new section AS 26.05.798 prohibiting retaliation against a person for reporting or planning to report a criminal offense, and making militia members who commit such offenses subject to punishment as courts-martial may direct.

Section 19. Amends AS 26.05 by adding new section AS 26.05.833 prohibiting certain offenses against correctional custody and restriction, including escape and exceeding the limits of physical restriction, and making militia members committing such offenses subject to punishment as courts-martial may direct.

Section 20. Amends AS 26.05.835 to add a new subsection (b) providing a militia member violating or falsely making an official oath is subject to punishment as a court-martial may direct.

Section 21. Amends AS 26.05.855(b) to make a conforming change to remove the reference of a controlled substance in AS 26.05.870 (c), the definition of a controlled substance was moved to the definition section in AS 26.05.990.

Section 22. Amends AS 26.05.855(c) to make a conforming change to remove the reference of a controlled substance in AS 26.05.870 (c), the definition of a controlled substance was moved to the definition section in AS 26.05.990.

Section 23. Amends AS 26.05.860 changing the offense of "Drunk on Duty" to "Drunkenness and Other Incapacitating Offenses" offenses to include incapacitation due to indulgence in any alcoholic beverage or any drug, and making militia members who commit such offenses subject to punishment as courts-martial may direct.

Section 24. Amends AS 26.05.860 by adding new subsection (b) directing a member of the militia, while in status as a prisoner is drunk or under the influence of a controlled substance without a valid prescription, shall be punished as a court-martial may direct.

Section 25. Amends AS 26.05.865 to include sentinels loitering or wrongfully sitting down on duty or is unable to perform their duty as a result from any alcoholic beverage or drug is subject to punishment as courts-martial may direct.

Section 26. Amends AS 26.05 by adding new section AS 26.05.867 directing militia members engaged in improper behavior toward a sentinel or lookout are subject to punishment as courts-martial may direct.

Section 27. Amends AS 26.05.890(a) to enumerate the offenses for which militia members would be guilty of sexual assault and subject to punishment as courts-martial may direct.

Section 28. Amends AS 26.05.890 by adding news subsections (g) defining when court-martial convening authorities may reduce, commute, or suspend sentences imposed by court-martial for offenses of sexual assault, and (h) requiring courts-martial to provide offenders convicted of sexual assault with information regarding sex offender registration under AS 12.63.010.

Section 29. Amends AS 26.05 by adding new section AS 26.05.893 describing prohibited activities between militia members in positions of special trust and military recruits, trainees, and subordinates, and prescribing such offenses are subject to punishment as courts-martial may direct. AS 26.05.893 specifies consent is not a defense for any conduct at issue in a prosecution under this statute.

Section 30. Amends AS 26.05 by adding new section AS 26.05.897 defining the offenses of assault and aggravated assault, and specifying militia members committing these offenses are subject to punishment as courts-martial may direct.

Section 31. Amends AS 26.05.900(a) to include broadcasting and distribution of indecent recordings as described in this section as offenses for which militia members would be subject to punishment as courts-martial may direct.

Section 32. Amends AS 26.05.900(d) by adding a new paragraph defining "recording" as that contained in the 2016 Amendment to article 120c of the UCMJ, "a still or moving visual image captured or recorded by any means," and "without the other person's consent" as having the same meaning as given to "without consent" in AS 11.41.470.

Section 33. Amends AS 26.05.900 by adding new section (e) requiring courts-martial to provide offenders convicted of sexual assault with information regarding sex offender registration under AS 12.63.010.

Section 34. Amends AS 26.05 by adding new section AS 26.05.913 making militia members engaged in willfully and unlawfully manipulating public records with ill intent subject to punishment as courts-martial may direct.

Section 35. Amends AS 26.05.935 by adding new subsection (d) requiring offenders convicted of enumerated offenses under (b) of this section to register as sex offenders under AS 12.63, and requiring courts-martial to provide offenders with information regarding sex offender registration.

Section 36. Amends AS 26.05 by adding new sections AS 26.05.940 prohibiting willful and intentional misuse of government computers, programs, codes, and data, and AS 26.05.945 prohibiting knowing and willful violation of the limits of a medical quarantine, and making militia members engaged in such offenses subject to punishment as a court-martial may direct.

Section 37. Amends AS 26.05.990 to include the definition of a controlled substance. The definition was originally located in AS 26.05.870(c). Section 38. Repeals AS 26.05.870 (c).

Section 39. Amends the uncodified law of the State of Alaska to reconcile the generally equivalent military and civilian offenses, and specify the dates the new measures above will apply to cases involving these offenses.

Section 40. Amends the uncodified law of the State of Alaska to allow this Act to take effect only after The

Adjutant General (TAG) notifies the revisor of statutes on or before 1 January 2019 the President of the United States has signed an Executive Order designating the effective date, under the National Defense Authorization Act, of the amendments to the UCMJ made by the Military Justice Act of 2016.

Section 41. Amends the uncodified law of the State of Alaska to allow Sections 1-5, 8-38, and 39 (b)-(d) of this Act to take effect only if TAG notifies the revisor of statutes as prescribed in Section 40 above.

Section 42. Specifies if Sections 1-5, 8-38, and 39 (b)-(d) of this Act take effect under Section 41 above, they take effect 1 January 2019.

Section 43. Establishes 1 July 2018 as this Act's effective date, except as provided in Section 38 above.

CHAIR COGHILL observed that the various effective dates appear to dovetail with either the Uniform Military Code or the National Guard Bureau efforts.

MS. KLOSTER said that's correct. The bill also has some conditional effect language because the current Uniform Code of Military Justice is still in process.

CHAIR COGHILL asked how many bills on this topic are going through the process.

[3:43:29 PM](#)

REPRESENTATIVE TUCK said this is the fourth bill that updates portions of Title 26 and they're all in the Senate.

SENATOR SHOWER asked if Alaska's defense forces have had a chance to review the bill and ensure that it matches federal law.

MS. KLOSTER said the sponsor has gotten a lot of help drafting the bill from Captain Blake Circle and Lieutenant Colonel Chris Weaver. They have been an integral part of making the bill work.

SENATOR COSTELLO referenced the controlled substance list in subsection (d) on page 18, line 26, and asked if Ambien is included in the list. It's a federal Schedule I drug to improve

sleep that has been found to cause sleepwalking and sleep-driving.

[3:46:05 PM](#)

CAPTAIN BLAKE CIRCLE, Alaska Army National Guard, JBER, Alaska, stated that Ambien would be covered under the bill if it falls within the federal schedule.

SENATOR SHOWER asked if they found that the changes proposed by HB 307 match the federal Uniform Code of Military Justice and mesh with the Alaska Constitution.

CAPTAIN CIRCLE said there were concerns when the ACMJ went through originally, but this time he didn't find any major differences. It largely matches the federal code.

[3:48:02 PM](#)

CHAIR COGHILL asked the sponsor if he'd heard any criticism of the bill.

REPRESENTATIVE TUCK said no. There was some discussion related to Senator Costello's question and everyone was comfortable.

MS. KLOSTER said a committee substitute is forthcoming to ensure the bill aligns with current statute. She noted that she had been working through the chair's office.

[3:49:18 PM](#)

CHAIR COGHILL held HB 307 in committee.

HB 20-SOLEMNIZE MARRIAGE: ELECTED OFFICIALS

[3:49:42 PM](#)

CHAIR COGHILL announced the consideration of HB 20. [CSHB 20(JUD) was before the committee.]

[3:50:30 PM](#)

SARA PERMAN, Staff, Representative Matt Claman, Alaska State Legislature, Juneau, Alaska introduced HB 20 on behalf of the sponsor reading the following statement:

In financially challenging times like we face today, I'm reminded that part of our role as elected officials is to reduce red tape and make government accessible to the public. In introducing this bill, I'd like to make marriage more easily accessible. This bill will allow couples to have their marriage

solemnized directly by elected officials. It allows it to be a friendly face of government while providing a service to the public. Being able to perform marriages would be a privilege and we'd be fortunate to have the opportunity. Finally, the bill puts into statute the constitutional principle that religious figures and others cannot be compelled to perform marriages.

House Bill 20 amends Alaska marriage code to add language that allows marriages to be solemnized by elected officials in the state of Alaska.

Section 1 amends Alaska Statute 20.05.261(a) relating to who may solemnize a marriage. Currently, the statute only allows for marriage solemnization by a religious official which includes ministers, priests, rabbis or commissioned officers of the Salvation Army, marriage commissioner or judicial officer or a religious organization or congregation. House Bill 20 adds language to add to the list an individual holding an elective office in the state.

Section 2 adds a new subsection to the same statute that says that no religious official, organization, or elected official that is authorized to perform marriages is obligated to do so.

Section 3 broadens the circumstances covered by Alaska Statute 25.05.281, marriage by an unauthorized person. If a person falsely claiming to be an elected official, solemnizes a marriage and that marriage is consummated on the belief that the individuals have been lawfully married, the marriage is still considered valid.

The purpose of this bill is to make marriage accessible to all Alaskans. We recognize that marriage opens doors for people. There are over 1,100 places in federal laws and programs where being married expands an individual's opportunities. Examples include: access to health care for one's spouse or having eligibility for family medical leave. Frankly, we believe that this bill is a family-first bill that allows people to receive greater benefits that are good for all Alaskans.

Additionally, House Bill 20 also allows elected officials to be good stewards of government. It allows elected officials to interact on a one-on-one basis with constituents, providing a service that will have a lasting impact on constituents' lives. Whereas couples can currently have anyone solemnize a marriage through a marriage commissioner appointment, there is a \$25 fee and the process can be time consuming. Having an elected official available provides a simple, cost-free outlet. This may also apply to couples who may not be affiliated with a particular religious organization. They would be able to have an elected official perform their wedding without having to go through the process of arranging for a marriage commissioner appointment. In smaller town or rural areas with limited resources, this change provides one more outlet for marriage solemnization. For example, if a couple in a remote Alaskan village are set to be married and the minister becomes ill, the mayor could step in on short notice.

With that, I'll stress nothing in this bill mandates the elected officials must solemnize marriage. And I'll also note that the Department of Health and Social Services has assigned a zero fiscal note to this bill. This bill actually may remove the expense of citizens who otherwise pay a \$25 fee for a marriage commissioner appointment.

[3:54:00 PM](#)

SENATOR SHOWER asked her to clarify the provision regarding the validity of a marriage solemnized by an unauthorized person.

MS. PERMAN said her understanding is that if a person does not have the authority to conduct a marriage but the people getting married were unaware of that fact, the state would accept the marriage as valid once it was consummated. That is current statute and the bill adds elected officials. If someone erroneously believed an individual was an elected official and had the authority to perform a marriage, the state would recognize that marriage once it was consummated.

CHAIR COGHILL noted the ongoing debate about who should be allowed to marry, and expressed appreciation that the bill does not create a duty or obligation to perform a marriage.

[3:56:01 PM](#)

MS. PERMAN advised that the bill is in response to the 2015 Supreme Court ruling that the First Amendment ensures that religious organizations and persons are given proper protection to decline to perform a marriage.

CHAIR COGHILL asked the court representative if that interpretation was correct.

UNIDENTIFIED PERSON in the audience confirmed that judges must marry people.

CHAIR COGHILL summarized that court officials must marry people but everyone else may marry people.

[3:57:00 PM](#)

CHAIR COGHILL held HB 20 for future consideration.

#

[3:57:18 PM](#)

At ease

SB 195-PF DIVIDEND FUND TRANSFERS;CRIMES;VICTIMS

[3:59:00 PM](#)

CHAIR COGHILL reconvened the meeting and announced the consideration of SB 195.

[3:59:50 PM](#)

BUDDY WHITT, Staff, Senator Shelley Hughes, Alaska State Legislature, Juneau, Alaska, stated that SB 195 is designed to assist crime victims. It is a companion bill to HB 216, sponsored by Representative Chuck Kopp. He introduced the legislation speaking to the following sponsor statement:

The Alaska State Constitution recognizes the rights of crime victims through Article I, Section 24. Restitution is one of those rights. Unfortunately, the outstanding balance of court-ordered restitution payments to victims has remained very high and victims find themselves waiting for several years to receive payments. The current balance of outstanding court-ordered restitution is over \$80 million.

There is a mechanism in place to assist victims of crime through the criminal fund established by the Legislature in 1988 (HB245), but over time, most of the funds have been used to pay for inmate healthcare

costs and the amount to assist victims has fallen off sharply. SB 195 seeks to restore a balance, clear ambiguities, and prioritize restoring victims to a pre-offense condition.

In 1988, HB 245 made certain criminal offenders ineligible to receive a Permanent Fund Dividend and stated intent language that the money that would have gone to the offenders would go to support victims of crimes by funding the Violent Crimes Compensation Board. Since establishment of the criminal fund, there have been statutory changes to eligible recipients and victims of crimes are no longer a priority.

Senate Bill 195 [and companion HB 216] establishes an account titled the Restorative Justice Account. It prioritizes the use of the funds for compensation through the Violent Crimes Compensation Board and enables the Office of Victims' Rights to qualify for appropriations from this fund and authorizes them to pay court-ordered restitution to victims of crimes when a victim has exhausted all other avenues available. This bill does not eliminate an offender's liability to pay restitution, fines, and other fees imposed to them through the criminal justice system. Senate Bill 195 also adds a mechanism for Alaskan's to donate to the crime victims' compensation fund through the Pick.Click.Give. Program.

Additionally, Senate Bill 195 extends the opt-out period of victims from 30 to 90 days from receiving help from the State of Alaska to collect restitution and adds language authorizing use of the funds for substance abuse and mental health services for offenders.

Senate Bill 195 will reestablish victim restitution as our highest priority.

MR. WHITT said a current report from the Council on Domestic Violence and Sexual Assault (CDVSA) indicates that 59 percent of adult women in Alaska have experienced domestic violence or sexual violence in their lifetime. Alaska ranks number one in the country in this regard and compensation claims increase every year. The 2017 Violent Crimes Compensation Board (VCCB) report shows that a majority of victims compensated through VCCB funds are women and children. Most of the children that are

compensated through the fund are victims of sexual assault and sexual abuse.

He explained that compensation is intended to meet the immediate needs associated with the individual's victimhood, whereas restitution occurs after a conviction and is established by the court. A recent report shows there is \$129 million in outstanding restitution payments. Before 2010, appropriations from the criminal fund were split evenly between victims of crime and other eligible entities. Since then, the majority of funds appropriated from the criminal fund have gone to the Department of Corrections to pay for medical services of inmates. Less than 15 percent goes to the compensation of victims. Both the sponsor of SB 195 and the sponsor of the companion bill, HB 216, want to ensure that victims and victims' compensation are protected moving forward.

[4:06:48 PM](#)

CHAIR COGHILL asked Mr. Giorgana if he had anything to add.

[4:07:15 PM](#)

ERIC CORDERO GIORGANA, Staff, Representative Chuck Kopp, Alaska State Legislature, Juneau, Alaska, stated that HB 216, the companion to SB 195, recently passed the House Finance Committee and will hopefully reach the floor very soon. These bills return to the legislative intent that created the criminal fund in 1988. It was meant to compensate crime victims through the Violent Crimes Compensation Board. Currently, about 99 percent of the fund is used to pay for inmate health care. He noted that a few years ago former Senator Fred Dyson introduced a similar bill that passed the Senate unanimously.

CHAIR COGHILL said he wanted the full committee to be present when the fiscal note is discussed.

[4:08:50 PM](#)

CHAIR COGHILL held SB 195 in committee for future consideration.

[4:09:31 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 4:09 p.m.