

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 17, 2018

9:21 a.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

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 Service members Civil Relief Act; relating to contracts made by service members; relating to nonjudicial punishment of members of the organized militia; relating to offenses subject to court- martial proceedings; and providing for an effective date."

- MOVED SCS CSHB 307(JUD) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 355(JUD)

"An Act relating to the crime of criminally negligent burning; relating to protection of and fire management on forested land; relating to prohibited acts and penalties for prohibited acts on forested land; requiring the Alaska Supreme Court to establish a bail schedule; and providing for an effective date."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 170(JUD)

"An Act relating to securities, registration, exempt securities, exempt transactions, broker-dealers, agents, investment advice, investment advisers, investment adviser representatives, federal covered securities, federal covered investment advisers, viatical settlement interests, small intrastate security

offerings, Canadian broker-dealers, and Canadian agents; relating to protecting older and vulnerable adults from financial exploitation; relating to administrative, civil, and criminal enforcement provisions, including restitution and civil penalties for violations; relating to an investor training fund; establishing increased civil penalties for harming older persons and vulnerable adults; relating to corporations organized under the Alaska Native Claims Settlement Act; amending Rules 4, 5, 54, 65, and 90, Alaska Rules of Civil Procedure, and Rule 602, Alaska Rules of Appellate Procedure; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

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)
04/11/18 (S) Heard & Held
04/11/18 (S) MINUTE(JUD)
04/13/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/13/18 (S) <Bill Hearing Canceled>
04/17/18 (S) JUD AT 9:00 AM BELTZ 105 (TSBldg)

BILL: HB 355

SHORT TITLE: FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

SPONSOR(s): REPRESENTATIVE(s) GUTTENBERG

02/16/18 (H) READ THE FIRST TIME - REFERRALS
02/16/18 (H) RES, JUD
02/28/18 (H) RES AT 1:00 PM BARNES 124
02/28/18 (H) Heard & Held
02/28/18 (H) MINUTE(RES)
02/28/18 (H) RES AT 6:00 PM BARNES 124
02/28/18 (H) Heard & Held
02/28/18 (H) MINUTE(RES)
03/05/18 (H) RES AT 1:00 PM BARNES 124
03/05/18 (H) Heard & Held
03/05/18 (H) MINUTE(RES)
03/09/18 (H) RES AT 1:00 PM BARNES 124
03/09/18 (H) Moved CSHB 355(RES) Out of Committee
03/09/18 (H) MINUTE(RES)
03/12/18 (H) RES RPT CS(RES) NT 4DP 3NR 1AM
03/12/18 (H) DP: LINCOLN, DRUMMOND, JOSEPHSON, TARR
03/12/18 (H) NR: BIRCH, PARISH, TALERICO
03/12/18 (H) AM: RAUSCHER
03/14/18 (H) JUD AT 1:00 PM GRUENBERG 120
03/14/18 (H) Heard & Held
03/14/18 (H) MINUTE(JUD)
03/19/18 (H) JUD AT 1:00 PM GRUENBERG 120
03/19/18 (H) Heard & Held
03/19/18 (H) MINUTE(JUD)
03/26/18 (H) JUD AT 1:00 PM GRUENBERG 120
03/26/18 (H) Scheduled but Not Heard
03/30/18 (H) JUD AT 1:00 PM GRUENBERG 120
03/30/18 (H) <Bill Hearing Canceled>
04/02/18 (H) JUD AT 1:00 PM GRUENBERG 120
04/02/18 (H) Heard & Held
04/02/18 (H) MINUTE(JUD)
04/02/18 (H) JUD AT 7:00 PM GRUENBERG 120

04/02/18 (H) Moved CSHB 355(RES) Out of Committee
04/02/18 (H) MINUTE(JUD)
04/04/18 (H) JUD RPT CS(JUD) NT 3DP 1NR 2AM
04/04/18 (H) DP: KREISS-TOMKINS, STUTES, CLAMAN
04/04/18 (H) NR: LEDOUX
04/04/18 (H) AM: EASTMAN, KOPP
04/09/18 (H) TRANSMITTED TO (S)
04/09/18 (H) VERSION: CSHB 355(JUD)
04/10/18 (S) READ THE FIRST TIME - REFERRALS
04/10/18 (S) JUD
04/17/18 (S) JUD AT 9:00 AM BELTZ 105 (TSBldg)

BILL: HB 170

SHORT TITLE: AK SECURITIES ACT; PENALTIES; CRT. RULES
SPONSOR(s): LABOR & COMMERCE

03/10/17 (H) READ THE FIRST TIME - REFERRALS
03/10/17 (H) L&C, JUD
03/24/17 (H) L&C AT 3:15 PM BARNES 124
03/24/17 (H) Heard & Held
03/24/17 (H) MINUTE(L&C)
03/27/17 (H) L&C AT 3:15 PM BARNES 124
03/27/17 (H) Moved HB 170 Out of Committee
03/27/17 (H) MINUTE(L&C)
03/29/17 (H) L&C RPT 6DP 1NR
03/29/17 (H) DP: SULLIVAN-LEONARD, STUTES, WOOL,
JOSEPHSON, BIRCH, KITO
03/29/17 (H) NR: KNOPP
04/07/17 (H) JUD AT 1:00 PM GRUENBERG 120
04/07/17 (H) Heard & Held
04/07/17 (H) MINUTE(JUD)
04/11/17 (H) JUD AT 5:30 PM GRUENBERG 120
04/11/17 (H) Heard & Held
04/11/17 (H) MINUTE(JUD)
04/12/17 (H) JUD AT 1:00 PM GRUENBERG 120
04/12/17 (H) Moved CSHB 170(JUD) Out of Committee
04/12/17 (H) MINUTE(JUD)
04/13/17 (H) JUD RPT CS(JUD) NT 1DP 4NR
04/13/17 (H) DP: CLAMAN
04/13/17 (H) NR: EASTMAN, KOPP, KREISS-TOMKINS,
FANSLER
04/17/17 (H) TRANSMITTED TO (S)
04/17/17 (H) VERSION: CSHB 170(JUD)
05/01/17 (S) READ THE FIRST TIME - REFERRALS
05/01/17 (S) L&C, JUD
03/19/18 (S) L&C AT 6:00 PM BELTZ 105 (TSBldg)
03/19/18 (S) Heard & Held

03/19/18	(S)	MINUTE (L&C)	
04/02/18	(S)	L&C AT 9:00 AM BELTZ 105 (TSBldg)	
04/02/18	(S)	Scheduled but Not Heard	
04/14/18	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)	
04/14/18	(S)	Moved SCS CSHB 170 (L&C) Out of Committee	
04/14/18	(S)	MINUTE (L&C)	
04/15/18	(S)	L&C RPT SCS 2DP 1NR SAME TITLE	
04/15/18	(S)	DP: COSTELLO, MEYER	
04/15/18	(S)	NR: GARDNER	
04/17/18	(S)	JUD AT 9:00 AM BELTZ 105 (TSBldg)	

WITNESS REGISTER

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: Reviewed the changes that appear in the Senate CS, version U, for HB 307.

CAPTAIN BLAKE CIRCLE
Alaska Army National Guard
JBER, Alaska

POSITION STATEMENT: Provided supporting comments on HB 307.

ALLIANA SALANGUIT, Staff
Representative David Guttenberg
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 355 on behalf of the sponsor.

REPRESENTATIVE DAVID GUTTENBERG
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 355.

CHRIS MAISCH, State Forester and Director
Division of Forestry
Department of Natural Resources (DNR)
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 355.

NANCY MEADE, General Counsel
Administrative Office
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Provided information related to HB 355.

REPRESENTATIVE SAM KITO III
Alaska State Legislature
Juneau, Alaska
sponsor of HB 170

POSITION STATEMENT: Provided introductory remarks on HB 170 as Chair of the House Labor and Commerce Standing Committee.

CHRYSTAL KOENEMAN, Staff
Representative Sam Kito III
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 170.

KRISTY NAYLOR, Acting Director
Division of Banking and Securities
Department of Commerce, Community and Economic Development
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 170.

BRIAN PINKSTON, Owner
Bright Road Wealth Management
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 170.

DAVID GOTTSTEIN, President and Chief Investment Officer
Dynamic Capital Management Inc.
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 170.

ACTION NARRATIVE

[9:21:42 AM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 9:21 a.m. Present at the call to order were Senators Costello, Kelly, Wielechowski, and Chair Coghill. Senators Shower and Kelly arrived soon thereafter.

HB 307-MILITARY JUSTICE & MILITIA CIVIL RELIEF

[9:23:03 AM](#)

CHAIR COGHILL announced the consideration of HB 307 and noted the proposed committee substitute (CS).

[9:23:33 AM](#)

SENATOR COSTELLO moved to adopt the work draft Senate CS for HB 307, version 30-LS1099\U, as the working document.

CHAIR COGHILL objected for an explanation.

[9:23:57 AM](#)

SENATOR SHOWER joined the committee.

[9:24:07 AM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, Juneau, Alaska, sponsor of HB 307, said Kendra Kloster would go through the changes.

[9:24:19 AM](#)

KENDRA KLOSTER, Staff, Representative Chris Tuck, Alaska State Legislature, Juneau, Alaska, stated that version U is the result of work by the Department of Public Safety and the Department of Military & Veterans Affairs (DMVA) to ensure that the bill works as intended. She reviewed the changes that appear in version U speaking to the following prepared document:

The bill adds sex offender registration requirements for certain Alaska Code of Military Justice (ACMJ) offenses. Consistent with other Alaska crimes that require registration, this adds the requirement to register for convictions under laws of other jurisdictions similar to those ACMJ offenses to sections 1, 2, and 3.

Adds to Section 3 a limitation on the requirement to register under AS 26.05.893 similar to the limitation on the registration requirement on AS 26.05.890. This ensures the registration requirements apply to similar offenses as those under the Alaska criminal code and are not overly broad.

Section 11 changes the basis of defining ACMJ offenses as felony or misdemeanor to the possible penalty rather than the actual penalty. This corresponds to the definition of felony and misdemeanor crimes in common law and the Alaska criminal code.

Sections 5 and 40 extend DNA and fingerprint collection requirements that exist for civilian crimes to ACMJ crimes.

Maximum penalties are added to the new ACMJ offenses in the bill consistent with the formulation of already existing ACMJ offenses. The punishments are consistent with the punishments under the federal Uniform Code of Military Justice. [These changes appear in Sections 12, 14, 15, 17, 19, 20, 21, 22, 26, 31, 36, and 38.]

[9:28:39 AM](#)

CHAIR COGHILL noted that Captain Blake Circle with the Alaska Army National Guard was available to answer questions.

SENATOR COSTELLO asked the sponsor if he had contemplated making the bill retroactive.

REPRESENTATIVE TUCK answered no.

SENATOR SHOWER asked if 20 years of age referenced in the bill matches the federal Uniform Code of Military Justice (UCMJ) law.

[9:30:20 AM](#)

CAPTAIN BLAKE CIRCLE, Alaska Army National Guard, JBER, Alaska, replied the under 20 years of age limitation is intended to mirror the cutoff for like civilian crimes.

CHAIR COGHILL asked the sponsor if he had anything to add.

MS. KLOSTER deferred to Captain Circle to comment on the changes.

CAPTAIN CIRCLE said DMVA worked closely with the Department of Public Safety (DPS) and the Department of Law to develop the CS. DMVA supports the bill at this point.

[9:32:06 AM](#)

CHAIR COGHILL removed his objection and version U was adopted.

[9:32:28 AM](#)

SENATOR COSTELLO moved to report the Senate CS for CS for HB 307, version U, from committee with individual recommendations and attached zero fiscal note(s).

CHAIR COGHILL found no objection and SCS CSHB 307(JUD) moved from the Senate Judiciary Standing Committee.

[9:33:06 AM](#)

At ease

[9:33:55 AM](#)

SENATOR KELLY joined the committee.

HB 355-FIRE;FOREST LAND; CRIMES;FIRE PREVENTION

[9:35:05 AM](#)

CHAIR COGHILL announced the consideration of HB 355. [CSHB 355(JUD) was before the committee.]

[9:36:28 AM](#)

ALLIANA SALANGUIT, Staff, Representative David Guttenberg, Alaska State Legislature, Juneau, Alaska, stated that HB 355 seeks to prevent human-caused fires. Some of these have been very large and expensive. The Sockeye fire resulted in the loss of 55 residences and \$10 million, the McHugh fire cost \$6 million, and the Hastings fire cost \$20 million. The bill inserts stronger language in the statute and implements a new bail schedule. She continued the introduction speaking to the following sponsor statement:

Most of the current Division of Forestry fire prevention laws were enacted in 1961. HB 355 updates and modernizes the wildland fire prevention and enforcement statutes, with the ultimate goal of reducing the number of human caused fires in Alaska. This bill reduces risks to human life, loss of homes and structures, extensive property damage, and fire suppression costs.

Current burning offenses are unclassified misdemeanors that require a mandatory court appearance and are punishable by a fine of between \$100-\$1,000 or 10 days to 6 months imprisonment. The bill replaces the current system with a tiered prevention and enforcement structure, similar to fish and game violations. Violations of regulations adopted under the bill that would be "bail schedule" offenses, allowing DOF prevention officers to issue citations for violations of these offenses. The bill also gives state fire prevention officers more flexibility in responding to burning violations and investigating wildland fires. "Knowing" violations of the bill

provisions would be a class A misdemeanor, and resolution would require a mandatory court appearance.

The bill also addresses enforcement gaps in the existing arson and criminally negligent burning statutes in AS 11.46, makes technical changes to clarify the right of state fire prevention officers to enter land to investigate wildland fire and establishes a misdemeanor offense of interfering with this right of access, and corrects potentially conflicting statutory provisions.

Over the last 15 years, the length of the wildland fire season and amount of acreage burned each year--especially in and near communities--has increased dramatically. The statutes and regulations that guide our prevention and management of wildland fire need to keep pace with these changes which is why I hope you will join me in supporting this bill.

[9:37:56 AM](#)

REPRESENTATIVE GUTTENBERG explained that HB 307 modernizes the statutes related to wildland fires. The bail schedule is separated based on the activity. It's one thing to build a fire in a yard outside a burn barrel and without a grate whereas setting a fire that gets out of control is another level of crime. Knowingly and intentionally setting a fire is a felony. Some of the existing definitions are clarified and much of the language is modernized. He said if Chris Maisch agrees with any changes the committee might make, he would not object.

[9:39:47 AM](#)

CHRIS MAISCH, State Forester and Director, Division of Forestry, Department of Natural Resources (DNR), Fairbanks, Alaska, stated that about 80 percent of the wildland fires are preventable because they are human caused. They are very expensive and preventing even one could save the state treasure \$20 million and prevent risk to the public and the firefighters. He said another key point is that the division has aggressive education programs. These include the Firewise Program that teaches homeowners and businesses how to survive a wildland fire and several school-based programs that promote smart burning practices, especially during fire season. HB 355 provides a more modern approach to enforcement, which any good education program needs.

CHAIR COGHILL stated support for a strong educational program combined with increased penalties. He noted that the fire department in his area provides good education when it issues a burn permit.

9:41:42 AM

MS. SALANGUIT delivered the following sectional analysis for HB 355.

Section 1. Amends AS 11.46.427(a)(2) by adding references to AS 41.15.060 - 41.15.120 to make it easier for agencies to coordinate enforcement of similar statutes that appear in different Titles of law.

Section 2. Amends AS 41.15.010 to add the word forested land to the intent language of this statute. Forested land is already defined in AS 41.15.170 and brings consistency to terminology used in the statutes.

Section 3. Amends AS 41.15.040 by updating terminology by deleting the "division of land" and adding "division of forestry". Clarifies the right of entry to public or privately owned land for the purpose of preventing, suppressing and controlling a wildland fire to include for the purpose of "investigating" and "when responding to a wildland fire or suspected fire or administering the provisions of this chapter."

Section 4. Adds a new subsection (b) to AS 41.15.040 that clarifies that a person may not interfere with or prohibit access authorized under (a) of this section, which is the right to enter for the purposes stated.

Section 5. Amends AS 41.15.050 Fire Season to allow the commissioner the ability to designate other periods as fire season at any time in order to allow open burning only by permit or to prohibit open burning.

Section 6. Amends AS 41.15.060. Permits. To include obtaining a permit for setting of fires, use of burning devices, and other activities and use of land that increases fire danger. This would include burning devices such as burn barrels, a common source of urban interface ignitions. This section is also amended to

remove the type of offense a violation of this section would be and relies on a new section to establish types of violations.

Section 7. Adds a new subsection to AS 41.15.060 stating that a person may not participate in any activities that increase fire danger without a permit as prescribed by the commissioner in regulation.

Section 8. Amends AS 41.15.70. Disposal of burning materials to read "may not discard...burning materials on forested land." Repeals language on the type of violation this offense would be and relies on amendments in Section 13 of this bill that provides a new range of violations. It also removes a reference to the "fire season" as the period of time this section applies and removes a reference to "public or private land".

Section 9. Amends AS 41.15.090. Building or leaving fires. To read " ... may not start a fire ... without first clearing the ground." The type of offense for a violation of this section is removed and relies on a new section to establish types of violations.

Sections 10. Amends AS 41.15.090 by adding a new subsection (b) A person who starts a fire in or near forested land may not leave the fire before totally extinguishing the fire. This change makes it very clear that leaving a fire unattended will result in consequences.

Section 11. Clarifies AS 41.15.100 Setting fires without consent. Updates language to "may not set on fire forested land ... " to make this section consistent with terminology and intent. The type of offense for a violation of this section is repealed and relies on a new section to establish types of violations.

Section 12. Amends AS 41.15.110 Uncontrolled spread of fire; leaving a fire unattended by repealing the type of offense for a violation of this section and relies on a new section to establish types of violations.
[The bail schedule]

Subsection (b) has verbiage change to shall, a positive action as opposed to the deleted current language "who neglects to." New language is added to make it clear that a person may not leave a fire unattended and the type of offense for a violation of this section is removed and relies on a new section to establish types of violations.

Subsection (c) updates terminology and makes it clear in any criminal action brought under this section that the escape of a fire may be evidence that the person acted knowingly. This change helps define mental state.

Section 13. Amends AS 41.15.120 by including the term investigate as one of the criteria for when an officer or employee of the United States or the state who is authorized to prevent and suppress fire requests a person to assist with such efforts. It also adds the word shall as opposed to "fails to" in determining if a person is in violation of the statute. The type of offense for a violation of this section is removed and relies on a new section to establish types of violations.

Section 14. Amends AS 41.15.130 Backfires. Adds the terminology and burnouts to allow fire suppression activity as "directed by an officer or employee of the U.S. or state who is authorized ... " and makes it clear that AS 41.15.045 (Civil immunity) applies to the activities under this section.

Section 15. Repeals and reenacts AS 41.15.140 to establish a range of violations and fines that increase with the seriousness of the offense. This section also links to the criminal statutes to improve the understanding and consistency between enforcement agencies and the courts.

Subsection (a) makes it clear that if AS 41.15.150 applies, a felony charge, the following sections do not apply.

Subsection (a)(1) establishes a class A misdemeanor offense for violations of AS 41.15.010- 41.15.130 for persons who knowingly violate this section.

Subsection (a)(2) establishes a fine amount in accordance with AS 12.55

Section 16. Amends AS 41.15.150 to provide specific criteria for criminal burning in the first degree if (a)(1) the person violates AS 41.15.155, and (2) a provision of 41.15.010 - 41.15.130 or a regulation adopted under AS 41.15.010 - 41.15.130.

Subsection (b) provides for a class B felony if in violation of subsection (a) of this section and is punishable as provided in AS 12.55 the Sentencing and Probation Chapter of Title 12.

Section 17. Amends AS 41.15.150 by adding a new section to provide specific criteria for criminal burning in the second degree if the person (a)(1) knowingly sets a fire, (2) with criminal negligence, the person (a) permits the fire to spread beyond the person's control or (b) fails to prevent the fire from spreading to forested land or other flammable material and (3) as a result, the fire burns forested land or other flammable material located or growing on land that is not owned, possessed or controlled by the person

Subsection (b) provides for a class C felony if in violation of subsection (a) of this section and is punishable as provided in AS 12.55 the Sentencing and Probation Chapter of Title 12.

Subsection (d) provides for an upgrading violation to a class B felony if the initial setting of the fire is in violation of AS 41.15.010 - 41.15.130 or a regulation adopted under AS 41.15.010 - 41.15.130.

Section 18. Amends AS 41.150.160. Double damages in civil actions to clarify applicable statutes for this provision.

Section 19. Amends AS 41.15.170 to add paragraph (5) "knowingly" which has the meaning in AS 11.81.900 and adds paragraph (6) "recklessly" which has the meaning given in AS 11.81.900.

Section 20. Amends AS 41.15.950 to add (b)(4) a new subsection to provide clear authority to issue a

citation to a person who violates a provision of AS 41.15.010 - 41.15.170 or a regulation adopted under this chapter.

Section 21. Adds a new section AS 41.15.960 directing the supreme court to establish a bail schedule for violations of statute specified in this bill.

Section 22. Repeals AS 41.15.080 which was a section on equipment and notice requirement for operators of a conveyance on or above forested land to be equipped with a receptacle for the disposal of burning material, shall post or display a copy of AS 41.15.050 - .080 and 41.15.140 in a conspicuous place. Additionally, an operator of a milling, logging or commercial operation shall also post and display a copy of the statute per the previous notation and if found in violation of this section, is guilty of a misdemeanor.

Section 23. Amends the uncodified law of the State of Alaska by adding a new section to read: TRANSITION: REGULATIONS. The Department of Natural Resources may adopt regulation necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulation.

Section 24. Provides courts 120 days to establish bail schedule required by Section 21.

Section 25. Sections 23 and 24 take effect immediately under AS 01.10.070 (c)

Section 26. Except as provided in Section 25, this Act takes effect July 151, 2018.

[9:47:52 AM](#)

CHAIR COGHILL asked Mr. Maisch for an explanation of the bail schedule.

MR. MAISCH explained that the bail schedule will be similar to traffic tickets and the types of offenses one can receive for violations. It is established in regulation and the supreme court will approve it to ensure consistency of fine amounts for different offenses. Importantly, the bill also crosslinks Title

41, the natural resources statutes, with Title 11, the criminal code. Previously it was difficult for state troopers, district attorneys, and others to understand and enforce the fire code. The law establishes a misdemeanor A offense and class B and C felonies. The tiered structure is based on the seriousness of the offense. Previously there was just one unclassified felony offense and one misdemeanor offense.

CHAIR COGHILL offered his understanding that a criminal charge would not relieve the civil liability.

MR. MAISCH said that's correct. Depending on the circumstances, there can be both a civil and criminal process.

[9:50:50 AM](#)

CHAIR COGHILL noted the individuals from the Department of Law who were available to answer questions. He asked Ms. Meade to discuss the bail schedule and proposed regulations.

[9:51:19 AM](#)

NANCY MEADE, General Counsel, Administrative Office, Alaska Court System, Anchorage, Alaska, explained that a bail schedule allows somebody to deal with their offense without a mandatory court appearance. The provision in Section 21 instructs the court to create a schedule of the amount of the fines. Typically, the court's administrative office meets with the agency with expertise to establish the amounts of the fines and that draft is presented to the supreme court for approval. The citizen who receives a citation doesn't need to show up in court to pay the fine unless they dispute the charge.

SENATOR WIELECHOWSKI asked the definition of forested land.

MS. SALAGUIT read the definition in Sec. 41.15.170.

SENATOR WIELECHOWSKI asked if that includes a backyard.

MR. MAISCH said yes; it includes anything that is vegetative and combustible under the right circumstances. The definition is purposefully broad because it's difficult to anticipate what might be a flammable vegetative material. For example, a spark from a lawnmower can and has ignited the white fluff in aspen tree seed pods.

SENATOR WIELECHOWSKI reviewed the language in Section 3 regarding the right of entry to control and suppress fires. He asked if the commissioner or authorized agent could order people

in the Anchorage Hillside area to chop down their trees to prevent fires or order them to clean up debris that could cause a fire.

MR. MAISCH said no, but they would address that through the Firewise Program. Section 3 allows the Division of Forestry to enter a property to prevent, suppress, and investigate reports of smoke. Investigate is a key term because firefighters would enter property to look for the cause and origin of reported smoke.

SENATOR WIELECHOWSKI asked if Section 3 allows an authorized agent of the commissioner or an officer to enter a property and tell the homeowner to chop down their black spruce trees and/or do it themselves for the purpose to preventing a fire.

MR. MAISCH said no.

SENATOR WIELECHOWSKI read the language in Section 3 and questioned that it doesn't give the commissioner or authorized agent the authority to tell a homeowner they needed to chop down their trees to prevent a wildfire and then do it.

MR. MAISCH said it would depend on context. They could chop down trees to prevent a fire in progress from spreading. They could not chop down someone's trees as a fire prevention measure

SENATOR WIELECHOWSKI said the language in Section 3 does not say it has to be an encroaching fire. He asked where there is a provision that limits the authority to an encroaching fire.

[9:59:09 AM](#)

CHAIR COGHILL said he believes the title to Sec. 41.15.040, *Right to entry to control and suppress fires*, would be the controlling factor.

MR. MAISCH agreed and pointed out that farther along in .040 it specifically talks about "preventing, controlling, or suppressing a fire or destructive agent." The context of Section 3 is that an emergency must exist for someone to remove vegetative material.

SENATOR WIELECHOWSKI said he was trying to establish a clear record because the language is loose. He reviewed the language in Section 8, asked how "discard" is defined, and if shooting a firecracker in your backyard would violate the section.

MR. MAISCH said the definition is broad and includes anything that leaves your hand and goes into forested land and causes a fire.

CHAIR COGHILL observed that the language doesn't explicitly say causes a fire.

MR. MAISCH said they would not be investigating unless they had a report from a citizen that someone was lighting fireworks during a period when a burn closure was in place. That would be a criminal offense even if it didn't cause a fire. A person would not be cited if they discarded fireworks that did not cause a fire.

SENATOR WIELECHOWSKI said he reads Section 8 to mean you can't shoot a firecracker anywhere in the state on forested land.

[10:01:40 AM](#)

MR. MAISCH said he was changing his answer. Someone who discards a firework during fire season could be cited, but it would be unlikely unless it started a fire. He added that municipal codes are often more restrictive than the state fire codes and fireworks is a very specific cause of fire. From a fire prevention standpoint, they would recommend not using fireworks anytime during fire season.

SENATOR WIELECHOWSKI said he reads Section 8 to broadly restrict the use of fireworks at any time because forested land is defined as any land that has vegetative material. He reviewed the language in Section 9 and asked what "clearing the ground" entails and how "immediately around" is defined.

MR. MAISCH said their education materials provide that information. Clearing the ground entails removing organic material down to the mineral layer. The recommended distance to clear depends on the size of the fire. Their educational material also covers that. He suggested that any continuing questions on Section 8 could be directed to the Department of Law.

CHAIR COGHILL deferred further questions until the meeting tomorrow.

[10:05:49 AM](#)

CHAIR COGHILL held HB 355 in committee.

HB 170-AK SECURITIES ACT; PENALTIES; CRT. RULES

[10:06:20 AM](#)

CHAIR COGHILL announced the consideration of HB 170. [SCS CSHB 170(L&C) was before the committee.] He noted who was available to answer questions.

[10:07:29 AM](#)

REPRESENTATIVE SAM KITO III, Alaska State Legislature, Juneau, Alaska, Chair of the House Labor and Commerce Committee that sponsored HB 170, stated that the bill updates the Alaska Securities Act and provides the legal framework for selling securities in Alaska to Alaskans. It includes provisions for crowdfunding, registration of securities and sales force, enforcement actions for violating the Alaska Securities Act, and education. It ensures that Alaska is keeping up with the securities industry.

[10:08:37 AM](#)

CHRYSTAL KOENEMAN, Staff, Representative Sam Kito III, Alaska State Legislature, Juneau, Alaska, stated that the current Alaska Securities Act has been in place since 1961. The Act is out of date and includes provisions for things like notification by telegraph. The bill also separates the securities statutes from the Alaska Native Claims Settlement Act and related statutes to facilitate a better understanding of each. It deters investment scams using Alaska entities or harming Alaskans. It helps protect older and vulnerable adults from financial exploitation and requires financial professionals to report suspected exploitation and gives them immunity.

[10:10:26 AM](#)

KRISTY NAYLOR, Acting Director, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, stated that HB 170 is important to the operation of the division, to their regulation of securities in Alaska, and to Alaskan consumers. She noted that the committee heard a similar bill in the 29th Legislature. The bill updates the 1961 law to better align with current industry practices. Most importantly, it enhances the consumer protection and enforcement provisions in current law.

HB 170 is about protecting consumers and effectively punishing bad actors who prey on Alaskans. The existing low administrative civil and criminal penalties are so insufficient they are not a deterrent but rather are seen by some as a cost of doing business. The bill solves this problem by increasing

administrative civil and criminal penalties for those who harm Alaskans, especially vulnerable adults and seniors. Recent investigations of fraud have involved millions of dollars in losses yet current enforcement provisions allow a maximum penalty of just \$25,000 per violation. The new law increases the penalty up to \$100,000 per violation and more if the victim is a senior or vulnerable adult and allows the division to bar bad actors from the securities industry in Alaska. The division could order restitution for victims and brokers and advisors would be required to report suspected financial exploitation to both the Division of Banking and Securities and to Adult Protective Services. She cited examples of recent and ongoing cases to demonstrate the need for enhanced tools for enforcement, penalties, and consumer protections.

10:16:50 AM

CHAIR COGHILL asked if the Alaska-specific provisions are readily identified.

MS. NAYLOR said 80-90 percent of the bill is based on the Uniform Securities Act. The existing Alaska-specific provisions were retained, but since more were added they took that opportunity to rearrange the Act to make it more user friendly.

10:18:12 AM

BRIAN PINKSTON, Owner, Bright Road Wealth Management, Anchorage, Alaska, stated that as a member of the securities industry he supports further regulation. He spends time every day helping clients work through things they bought and don't understand. It is important to have stronger criminal protections for seniors, especially those with diminished capacity. This is relevant for Alaska because Alzheimer cases in Alaska are expected to increase 54.9 percent by 2025. The Alzheimer's Association reports that Alaska is number one in the nation for seniors with Alzheimer's.

10:21:36 AM

DAVID GOTTSTEIN, President and Chief Investment Officer, Dynamic Capital Management Inc., Anchorage, Alaska, said he was speaking in support of HB 170 and wanted to applaud the Banking and Securities Division for advancing the proposal. He said a large portion of the securities industry operates at the most modest fiduciary standard so it's important to have strong penalties in place to protect investors when those modest standards are broken. Every year big investment institutions are fined for their misconduct but the individuals who offered the poor advice aren't penalized. It's the shareholders that pay the penalties

so it's important to have these tools in the toolbox for the banking and securities regulators to push back.

MR. GOTTSTEIN said he was pleased that the bill keeps the existing exemptions that makes it easier for small businesses to start and raise capital. He also applauds the efforts to protect the elderly because this is a growing and important area.

CHAIR COGHILL asked Ms. Naylor to be prepared to discuss the Alaska-specific provisions at the next hearing.

[10:25:16 AM](#)

SENATOR COSTELLO highlighted that the previous division director, Kevin Anselm, worked very hard on this bill. She said she considers it the unsung hero of the session. It's been through the process before but there are compelling reasons for giving it a thorough vetting.

[10:26:08 AM](#)

CHAIR COGHILL held HB 170 in committee for future consideration.

[10:26:12 AM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 10:26 a.m.