

ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE

April 18, 2018

2:03 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 81

"An Act relating to criminal and civil history requirements and a registry regarding certain licenses, certifications, appeals, and authorizations by the Department of Health and Social Services; and providing for an effective date."

- HEARD & HELD

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."

- MOVED SCS CSHB 170(L&C) OUT OF COMMITTEE

HOUSE BILL NO. 208

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

- SCHEDULED BUT NOT HEARD

CS FOR SS FOR HOUSE BILL NO. 216(FIN) AM

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

- BILL HEARING CANCELED

HOUSE BILL NO. 342

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

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: SB 81

SHORT TITLE: DHSS CENT. REGISTRY;LICENSE;BCKGROUND CHK

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

03/08/17	(S)	READ THE FIRST TIME - REFERRALS
03/08/17	(S)	HSS, JUD
02/02/18	(S)	HSS AT 1:30 PM BUTROVICH 205
02/02/18	(S)	Heard & Held
02/02/18	(S)	MINUTE(HSS)
02/05/18	(S)	HSS AT 1:30 PM BUTROVICH 205
02/05/18	(S)	-- MEETING CANCELED --
03/14/18	(S)	HSS AT 1:30 PM BUTROVICH 205
03/14/18	(S)	Heard & Held
03/14/18	(S)	MINUTE(HSS)
03/16/18	(S)	HSS AT 1:30 PM BUTROVICH 205

03/16/18 (S) Moved CSSB 81(HSS) Out of Committee
03/16/18 (S) MINUTE(HSS)
03/19/18 (S) HSS RPT CS 2DP 2NR NEW TITLE
03/19/18 (S) NR: WILSON, MICCICHE
03/19/18 (S) DP: BEGICH, VON IMHOF
04/16/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)
04/16/18 (S) <Above Item Removed from Agenda>
04/16/18 (S) MINUTE(JUD)
04/18/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

BILL: HB 355

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

SPONSOR(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)
 04/17/18 (S) Heard & Held
 04/17/18 (S) MINUTE (JUD)
 04/18/18 (S) JUD AT 1:30 PM 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)
 04/17/18 (S) Heard & Held
 04/17/18 (S) MINUTE(JUD)
 04/18/18 (S) JUD AT 1:30 PM BELTZ 105 (TSBldg)

WITNESS REGISTER

STACIE KRALY, Chief Assistant Attorney General
 Human Services Section
 Civil Division
 Department of Law
 Juneau, Alaska

POSITION STATEMENT: Introduced SB 81 on behalf of the administration.

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

POSITION STATEMENT: Reviewed the changes that appear in version U of HB 355.

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

POSITION STATEMENT: Answered questions and provided supporting testimony for HB 355.

JEFF TUCK, President
 Alaska Fire Chiefs Association
 Kenai, Alaska

POSITION STATEMENT: Testified in support of HB 355.

AARON PETERSON, Assistant Attorney General
Office of Special Prosecutions
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered questions related to HB 355.

CRYSTAL KOENEMAN, Staff
Representative Sam Kito
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions related to HB 170 on behalf of the sponsor.

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

POSITION STATEMENT: Provided some history and supporting testimony for HB 170.

ACTION NARRATIVE

[2:03:48 PM](#)

CHAIR JOHN COGHILL called the Senate Judiciary Standing Committee meeting to order at 2:03 p.m. Present at the call to order were Senators Shower, Costello, and Chair Coghill. Senators Wielechowski and Kelly joined the committee soon thereafter.

SB 81-DHSS CENT. REGISTRY;LICENSE;BCKGROUND CHK

[2:04:34 PM](#)

CHAIR COGHILL announced the consideration of SB 81. [CSSB 81(HSS) was before the committee.]

[2:04:43 PM](#)

STACIE KRALY, Chief Assistant Attorney General, Human Services Section, Civil Division, Department of Law, Juneau, Alaska, thanked the committee for hearing SB 81, relating to required background checks for participation in programs such as Medicaid and foster care. She explained that the bill is a technical amendment to statutes that were enacted in 2005. It will improve fairness for applicants without compromising the health, safety, and welfare of the individuals who receive services. She noted

that background checks are required for anybody who provides services that are paid for entirely or in part by the Department of Health and Social Services.

MS. KRALY said SB 81 does three primary things:

- It conforms the criminal history statutes to clarify what constitutes a civil history check.
- It renames two registries in current statute:
 - The child abuse and neglect registry that is maintained by the Office of Children's Services; and
 - The civil history check registry that is maintained by the Background Check Program within DHSS.
- It edits the licensing statutes in AS 47.32 to ensure the state is meeting the health, safety, and welfare of individuals receiving care in foster homes and assisted living facilities. This includes: sharing information without court orders or search warrants, and investigation of individuals if they abuse or neglect a person in care, as opposed to focusing solely on the entity.

MS. KRALY opined that SB 81 will maintain efficiencies, save money, and provide better information for the people the state regulates.

[2:07:28 PM](#)

CHAIR COGHILL asked if the ombudsman endorses these changes.

MS. KRALY answered yes; the Department of Health and Social Services, the Department of Law, the Office of the Ombudsman, and the Health and Social Services committees of both bodies support the current committee substitute.

[2:07:56 PM](#)

SENATOR WIELECHOWSKI joined the committee.

CHAIR COGHILL advised that the Office of the Ombudsman is part of the legislative branch.

SENATOR KELLY joined the committee.

[2:08:30 PM](#)

MS. KRALY provided an overview of the sections of SB 81 speaking to the following document:

Section 1. Amends Title 12 of the Alaska statutes to bring the Department of Public Safety criminal background check process into compliance with federal law; specifically, this amendment allows public safety [to]share criminal history information with the Department of Health and Social Services.

Section 2. This section makes conforming edits to rename "Centralized Registry" to the "the civil history database check" (AS 47.05.330) to more accurately describe the current practice and avoids confusion with the "the central registry" in AS 47.17.040 (see section 14).

Sections 3 and 4. These sections would amend AS 47.05.310(b) and 47.32.310(d) to clarify that barrier crimes apply to individuals as well as entities.

Section 5. This section would amend AS 47.05.310(e) to allow an individual to seek a background check. Under the current law, only entities can seek a background check. This section would also remove, at the request of the Department of Public Safety, the designation of the Department of Health and Social Services (DHSS) as a criminal justice agency for purpose of the background check program. (see also section 1).

Section 6. This section would amend AS 47.05.310(f) to make it clear that DHSS may - in addition to exceptions to the barrier crime provisions - approve a variance for a barrier crime.

Section 7. This section would amend AS 47.05.310(h) to address how a non-licensed provider, such as a relative who is receiving payment by the Office of Children's Services, is treated under the statute. This amendment would make it clear that such providers, while not being paid by DHSS, are still subject to background checks prior to placement.

Section 8. This section would add a new section to AS 47.05.310 to address immunity from civil or criminal liability for reporting during the background check process.

Section 9. This section would provide a similar framework for the civil history database checks as

background checks (see AS 47.05.310). This means that the same process applies to a person who is found to have a barring criminal conviction under AS 47.05.310 as well as a barring civil finding under AS 47.05.330.

Section 10. This section would repeal and reenact current statute to outline how the department will review existing databases, rather than create a separate database for the civil history checks. This section further provides that information reviewed would be confidential and is not subject to a public records request.

Specifically, this section:

- Clarifies that we are looking to evaluate health, safety, and welfare issues when reviewing databases related to licensed entities, not technical violations that may lead to a nonrenewal, suspension or revocation of a license;
- Clarifies that we are looking to identify persons whose children are subjects of a child in need of aid petition;
- Clarifies that we are looking to evaluate health, safety, and welfare issues when reviewing databases related to licensed providers (occupational licensing under AS 08), not unrelated technical violations;
- Adds that a person who works for the state - not just the Department of Health and Social Services - is subject to a barring condition if they are terminated from employment for a substantiated allegation of assaultive, neglectful, or exploitive behavior.

Section 11. This would amend the current immunity section to reflect the change to civil history database check.

2:11:01 PM

SENATOR WIELECHOWSKI directed attention to the language in Section 10 on page 6, lines 23-26. He asked if the databases the department will identify for review are limited to Alaska databases.

MS. KRALY said no; a primary database DHSS reviews is the Office of Inspector General Database for Medicare and Medicaid exclusions and fraud. Individuals on that list are prohibited from participating in the state's Medicaid Program.

SENATOR WIELECHOWSKI asked if DHSS could use exclusionary information from a database it had not identified if someone brought that information to their attention.

MS. KRALY explained that the regulations that outline the databases DHSS currently uses would need to be amended before they could rely on a new database to exclude someone.

She continued the sectional summary for SB 81.

Section 12. This would establish a new section to address the ability to seek a variance for any finding under this chapter and how to appeal a decision if there is disagreement with any decision made by DHSS, including providing a legal mechanism to share information held by the Office of Children's Services for proposes of pursuing a variance.

Section 13. This section would amend AS 47.05.390(6) to expand the definition of "entity" to include an individual service provider.

Section 14. This section amends AS 47.10.093(b) to allow for the sharing of information in the possession of OCS that will be necessary to pursue a variance as provided in section 12 of this bill.

Section 15. This section would rename the central registry maintained by the Office of Children's Services to the "child protection registry" to avoid confusion [between names in existing statute.] It also clarifies what is maintained on this registry, including substantiated findings under AS 47.10 or AS 47.17.

Section 16. This new subsection would clarify that before a substantiated finding can be placed on the child protection registry, the person must have been afforded notice of the finding and the opportunity to challenge the finding.

Section 17. This section would make a conforming edit to AS 47.32.010(c) replacing the centralized registry with civil history database check.

Section 18. This section would amend AS 47.32 to provide authority for DHSS to consider prior adverse

licensing findings in determining whether to grant or deny a license or whether to place a condition on a license.

Section 19. This would add a new section to make it clear that when there is an allegation that an employee or individual affiliated with a licensed entity is alleged to have engaged in any behavior that would impact the safety or welfare of a resident, the department may investigate that individual and issue a report on the findings of that investigation. This section would further provide that if a finding of abuse or neglect is substantiated then that finding will be part of the civil registry process and may result in a person being prohibited from employment or licensure in the future. This section would also make it clear that before such a finding can be used, due process must be afforded.

Section 20. This is technical fix to rename the "registry" to the "civil history database."

Section 21. This is technical fix that would clarify when formal hearings are required when an enforcement action is taken after a licensing investigation.

Section 22. This would add a new section to clarify that when law enforcement is investigating a crime that is also the subject of a licensing investigation, the material gathered by DHSS may be shared with the law enforcement as a matter of law in a concurrent investigation.

Section 23. This section would clarify that all divisions who implement AS 47.32 may share information with each other for the purpose of administering the licensing programs at DHSS.

Section 24. This section would repeal reference to provisions of the current law that are no longer necessary as a result of the prior sections of this bill.

Section 25. This is an applicability section for purposes of applying the criminal and civil background checks before, on, or after the effective date of this act.

Section 26. This section would advise the revisor regarding title changes to reflect amendments in this act, including the change to include the civil history registry.

Section 27. This provides for an immediate effective date.

[2:15:34 PM](#)

SENATOR COSTELLO asked if she foresees a problematic transition period if additional background checks are needed.

MS. KRALY said no, because the bill doesn't change the existing background check process.

SENATOR WIELECHOWSKI directed attention to the language in Section 15 on page 10 that requires DHSS to maintain a child protection registry. He asked if there is a limit on how long that information must be kept.

MS. KRALY advised that it refers to the Online Resource for the Children of Alaska (ORCA) database that is required by federal law and maintained by the Office of Children's Services. That information is maintained under public records almost in perpetuity due to the age of the individuals.

SENATOR WIELECHOWSKI asked if the information in that registry is discoverable under the Freedom of Information Act.

MS. KRALY said no.

[2:17:08 PM](#)

CHAIR COGHILL stated he would hold SB 81 in committee and bring it up again tomorrow.

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

[2:18:06 PM](#)

CHAIR COGHILL announced the consideration of HB 355 and noted the proposed committee substitute (CS).

[2:18:48 PM](#)

SENATOR COSTELLO moved to adopt the Senate CS for CSHB 355, version 30-LS1382\U, as the working document.

[2:18:59 PM](#)

CHAIR COGHILL objected for an explanation of the changes.

[2:19:04 PM](#)

ALLIANA SALANGUIT, Staff, Representative David Guttenberg, Alaska State Legislature, Juneau, Alaska, explained that version U of HB 355 updates the language in Section 8, page 3, line 11-15. It reads:

Sec. 41.15.070. Disposal of burning materials. During the fire season or a burn closure or restriction established under AS 41.15.050, a person may not discard any lighted tobacco, cigar, cigarette, match, firecracker, or other burning material on forested land.

She advised that this conforming change makes Section 8 consistent with Section 5 that talks about fire season.

CHAIR COGHILL asked if this addressed the inconsistency that Senator Wielechowski brought up in a previous meeting.

MS. SALANGUIT said yes.

SENATOR WIELECHOWSKI asked if littering laws, and perhaps others, would prohibit someone from discarding these materials during any season.

[2:20:21 PM](#)

CHRIS MAISCH, State Forester and Director, Division of Forestry, Department of Natural Resources (DNR), Fairbanks, Alaska, replied he was not aware of any laws the Division of Forestry would enforce, but local laws may prevent people from discarding trash or other materials. Section 8 now conforms with the purpose of fire protection in Section 5.

SENATOR WIELECHOWSKI said he was satisfied.

[2:20:54 PM](#)

CHAIR COGHILL removed his objection and version U was adopted.

He noted the proposed amendments and advised that if any were adopted they would be conformed to version U. He opened public testimony.

[2:22:38 PM](#)

JEFF TUCK, President, Alaska Fire Chiefs Association, Kenai, Alaska, testified in support of HB 355. It will provide the

Division of Forestry with prevention tools to better do their job. He expressed hope that the proposed amendments would do the same.

CHAIR COGHILL asked Senator Shower to present the proposed amendments.

[2:23:53 PM](#)

SENATOR SHOWER moved Amendment 1, labeled 30-LS1382\0.16.

30-LS1382\0.16
Radford
4/18/18

AMENDMENT 1

OFFERED IN THE SENATE
TO: CSHB 355 (JUD)

BY SENATOR SHOWER

Page 2, line 16:
Delete "investigating,"

Page 4, line 16-17:
Delete ",investigate,"

CHAIR COGHILL objected.

SENATOR SHOWER explained that this and the other amendments address what he views to be enforcement powers that are too broad and vague. He opined that "investigating" is not applicable to the title. The same reasoning applies to the deletion on page 4.

[2:25:28 PM](#)

MS. SALANGUIT advised that the sponsor opposes the amendment. She noted that this and the other amendments were presented in the other body and were not adopted.

[2:25:41 PM](#)

SENATOR WIELECHOWSKI asked Mr. Maisch why the Division of Forestry needs the ability to investigate.

MR. MAISCH replied the division's fire prevention officers are specifically trained in the cause and determination of wildland

fires. This is expertise that other state agencies do not have. He explained that the ability to investigate is important when there are smoke reports. He highlighted that following a fire emergency, an individual's constitutional rights are maintained and warrants are used to do more detailed investigations.

[2:26:37 PM](#)

At ease

CHAIR COGHILL asked Senator Shower if he maintained the amendment.

SENATOR SHOWER said yes.

CHAIR COGHILL asked for a roll call.

[2:26:46 PM](#)

A roll call vote was taken. Senators Shower and Kelly voted in favor of Amendment 1 and Senators Costello, Wielechowski, and Coghill voted against it. Therefore, Amendment 1 failed by a 2:3 vote.

[2:27:35 PM](#)

SENATOR SHOWER moved Amendment 2, labeled 30-LS1382\0.17.

30-LS1382\0.17
Radford
4/17/18

AMENDMENT 2

OFFERED IN THE SENATE
TO: CSHB 355 (JUD)

BY SENATOR SHOWER

Page 2, lines 14-15:

Delete "or administering the provisions of this chapter"

CHAIR COGHILL objected.

SENATOR SHOWER said the reasoning is the same as with the previous amendment. The powers this language grants are too broad when the paragraph specifically talks about the right of

entry to control and suppress fires. He opined that this needs to be rewritten and placed in a separate section.

MS. SALANGUIT stated that the sponsor opposes this amendment. It is more restrictive for the division and would allow permits to be issued only for setting fires and the use of burning devices.

MR. MAISCH confirmed that Amendment 2 would be more restrictive and would limit the division's right to enter only during an emergency to suppress and control wildland fires.

CHAIR COGHILL asked Senator Shower if it was his intention to make it more restrictive.

SENATOR SHOWER said he didn't believe it would be more restrictive. His view is that the amendment makes enforcing this chapter less restrictive for the division. It does not stop them from responding to and controlling and suppressing wildland fires or suspected wildland fires.

MR. MAISCH pointed out that one of the sections talks about other types of land uses. This includes things like timber harvesting and land clearing, both of which could cause fires. The amendment would prevent the division's ability to work under those scenarios.

[2:29:47 PM](#)

CHAIR COGHILL maintained his objection to Amendment 2.

SENATOR WIELECHOWSKI asked for more examples of why this power is needed.

MR. MAISCH said other provisions of this chapter include the section that refers to destructive agents such as insect infestations. AS 41.17.082(d) outlines the process the commissioner must use to identify a zone of infestation and deal with the destructive agents. The proposed amendment would restrict that authority.

CHAIR COGHILL asked for a roll call.

[2:31:04 PM](#)

A roll call vote was taken. Senator Shower voted in favor of Amendment 2 and Senators Wielechowski, Kelly, Costello, and Coghill voted against it. Therefore, Amendment 2 failed by a 1:4 vote.

[2:31:34 PM](#)

SENATOR SHOWER moved Amendment 3, labeled 30-LS1382\O.18.

30-LS1382\O.18
Radford
4/17/18

AMENDMENT 3

OFFERED IN THE SENATE
TO: CSHB 355 (JUD)

BY SENATOR SHOWER

Page 3, lines 7-9:

Delete all material and insert:

"(b) A person may not set fires or use
burning devices without a permit as
prescribed by the commissioner in
regulation."

CHAIR COGHILL objected

SENATOR SHOWER said the amendment addresses the concern that the language is too broad for what the section tries to accomplish.

SENATOR COSTELLO asked if the phrase "conduct other activities" is balanced by the phrase "without a permit as described." She questioned whether a permit would be required to smoke a cigarette.

MR. MAISCH said the division opposes Amendment 3. Other activities refers to other types of land uses such as timber harvest and land clearing, both of which would require a permit during fire season. A permit would not be required to smoke a cigarette.

SENATOR WIELECHOWSKI asked if mowing a lawn would be an example of an activity that could increase fire danger, given that hitting a rock could cause a spark and ignite a fire.

MR. MAISCH said yes. In a similar example, a hot saw hit a rock during timber harvest and started a large forest fire.

SENATOR WIELECHOWSKI asked to which lands and what times of year Section 7 applies.

MR. MAISCH replied it applies to forested lands during the fire season or other times prescribed by the commissioner. The definition of "forested lands" is broad and would include a lawn.

SENATOR WIELECHOWSKI asked if a permit is needed to mow your lawn.

MR. MAISCH clarified that a permit is not required but an individual could be cited if it causes a fire.

SENATOR WIELECHOWSKI asked about using a firearm outside.

MR. MAISCH said a permit is not needed to use a firearm but anything that can start a fire could be considered under the statute. The purpose of the broad statute is to prevent the risk to public safety that occurs with such ignition devices.

SENATOR WIELECHOWSKI maintained that the bill would require a permit to use a firearm.

He said he would support the amendment because the language in Section 7 is far too broad at this point.

[2:35:35 PM](#)

At ease

[2:35:40 PM](#)

CHAIR COGHILL reconvened the meeting and maintained his objection to Amendment 3. His understanding is that the broader language would only be used during imminent fire danger.

SENATOR WIELECHOWSKI said this would apply to all forested land (including lawns) during fire season, which is overbroad.

CHAIR COGHILL asked for a roll call.

[2:36:57 PM](#)

A roll call vote was taken. Senators Wielechowski, Kelly, and Shower voted in favor of Amendment 3 and Senators Costello and Coghill voted against it. Therefore, Amendment 3 passed by a 3:2 vote.

[2:37:39 PM](#)

SENATOR SHOWER moved Amendment 4, LS-301382\O.19.

30-LS1382\O.19
Radford
4/17/18

AMENDMENT 4

OFFERED IN THE SENATE
TO: CSHB 355 (JUD)

BY SENATOR SHOWER

Page 6, following line 16:

Insert a new bill section to read:

"* **Sec. 21.** AS 41.15.950 is amended by adding a new subsection to read:

(c) A person is not required under this section to disclose a deadly weapon under AS 11.61.220(a)(1)(A) to a peace officer described under (a)(1) of this section."

Renumber the following bill sections accordingly.

Page 7, line 2:

Delete "sec. 21"
Insert "sec. 22"

Page 7, line 3:

Delete "sec. 21" in both places
Insert "sec. 22" in both places

Page 7, line 4:

Delete "Sections 23 and 24"
Insert "Sections 24 and 25"

Page 7, line 5:

Delete "sec. 25"
Insert "sec. 26"

CHAIR COGHILL objected.

SENATOR SHOWER explained that the amendment is intended to avoid potential conflicts between firemen who are not law enforcement and citizens who are armed and do not have the duty to disclose.

CHAIR COGHILL asked Ms. Salanguit if the sponsor had seen the proposed amendment.

MS. SALANGUIT said yes and the Department of Law could speak to it.

2:40:00 PM

AARON PETERSON, Assistant Attorney General, Office of Special Prosecutions, Criminal Division, Department of Law, Anchorage, Alaska, said the way it stands now is that there is a reasonableness requirement that the person who knowingly possesses a concealed firearm is reckless that the person contacting them is a peace officer. Under the circumstance of a fireman who is dressed in a lime green uniform, it would not be reckless to be unaware that a fireman is a peace officer.

SENATOR WIELECHOWSKI asked if this refers to Sec. 11.61.220 (a)(1)(A) which is the affirmative duty to disclose to a police officer that you have a firearm.

MR. PETERSON said yes.

SENATOR WIELECHOWSKI asked if he agrees that the amendment clarifies that an individual does not have an affirmative duty to disclose to a peace officer that they have a firearm in their possession.

MR. PETERSON confirmed that the amendment would codify that an individual would never have the duty to disclose a concealed firearm, even if the fire prevention officer (FPO) was dressed as a peace officer.

2:43:54 PM

SENATOR SHOWER said the amendment tries to clarify that for the purpose of enforcing this chapter. Sec. 41.15.950(a)(1) identifies an employee of the department or other person authorized by the commissioner as peace officers of the state, regardless of their dress.

CHAIR COGHILL asked Mr. Peterson if he had a comment.

MR. PETERSON said no; he understands the intent of the amendment.

SENATOR WIELECHOWSKI said his question was who is defined as a peace officer and Sec. 41.15.950(a) appears to be fairly broad.

MR. PETERSON said there are numerous definitions of peace officer throughout the statutes, but the definition in Title 41 is for the purpose of enforcing Title 41.

[2:45:33 PM](#)

SENATOR SHOWER withdrew Amendment 4.

[2:45:56 PM](#)

CHAIR COGHILL held HB 355 in committee.

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

[2:46:23 PM](#)

CHAIR COGHILL announced the consideration of HB 170. [SCS CSHB 170(L&C) was before the committee.] He asked if there were any more questions for the committee to consider.

[2:47:30 PM](#)

SENATOR WIELECHOWSKI asked if HB 170 was the same or substantially different than securities bills that have come before the committee in years past.

[2:47:49 PM](#)

CRYSTAL KOENEMAN, Staff, Representative Sam Kito III, Alaska State Legislature, Juneau, Alaska, said HB 170 has been around since 2010. It was important to the former director of the Division of Banking and Securities, Kevin Anselm, and her predecessor.

CHAIR COGHILL added that the bill always gets caught up in the end of session because it's so dense. The industry has had significant input and the current division director wants to testify today.

[2:49:08 PM](#)

KRISTY NAYLOR, Acting Director, Division of Banking and Securities, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, said HB 170 is a consumer protection bill that enhances the administrative civil and criminal penalties. The hope is that the additional consumer protections will benefit Alaskans as a whole. The bill looks larger than it really is because it completely repeals and reenacts the statutes. Most of the existing Securities Act provisions remain in place but are reorganized.

CHAIR COGHILL asked her to discuss why the bill separates securities from the Alaska Native Settlement Act (ANCSA).

MS. NAYLOR explained that the ANCSA was placed in the Securities Act when it passed because the federal government directed ANCSA corporation proxy solicitations to be regulated the way the FCC regulates proxy solicitations of publicly traded corporations. However, it doesn't make sense to have the same regulatory procedures as for broker dealers and investment advisors when ANCSA corporations are so unique and the proxy solicitation regulation is so individualized. Rather, it makes more sense to leave the ANCSA provisions where they are and move the securities provisions to another chapter and regulate them separately.

[2:52:09 PM](#)

CHAIR COGHILL said he wanted the members to understand that history. He asked if there was any objection to moving the bill.

[2:52:49 PM](#)

SENATOR WIELECHOWSKI asked if the bill had any opposition.

MS. KOENEMAN replied none that they were aware of through prior committee hearings.

[2:53:23 PM](#)

SENATOR COSTELLO moved to report the Senate CS for CS for HB 170(L&C), version R, from committee with individual recommendations and attached fiscal note(s).

[2:53:41 PM](#)

CHAIR COGHILL found no objection and SCS CSHB 170(L&C) moved from the Senate Judiciary Standing Committee

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At ease

[2:55:51 PM](#)

CHAIR COGHILL reconvened the meeting and reviewed the agenda for tomorrow.

[2:58:49 PM](#)

There being no further business to come before the committee, Chair Coghill adjourned the Senate Judiciary Standing Committee meeting at 2:58 p.m.