

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

March 18, 2020

1:11 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Chuck Kopp
Representative Harriet Drummond
Representative Louise Stutes
Representative Gabrielle LeDoux

MEMBERS ABSENT

Representative Laddie Shaw
Representative Sarah Vance

OTHER LEGISLATORS PRESENT

Representative Gary Knopp

COMMITTEE CALENDAR

CONFIRMATION HEARING(S) :

Alaska Police Standards Council

Daniel Weatherly - Anchor Point
Joseph White - Ketchikan
Ed Mercer - Juneau
Jennifer Winkelman - Juneau

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 174

"An Act raising the minimum age to purchase, sell, exchange, or possess a product containing nicotine or an electronic smoking product; and providing for an effective date."

- MOVED CSHB 174 (CRA) OUT OF COMMITTEE

HOUSE BILL NO. 287

"An Act requiring background investigations of village public safety officer applicants by the Department of Public Safety; relating to the village public safety officer program; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 174

SHORT TITLE: MIN. AGE TO POSSESS NICOTINE/ECIG PRODUCT

SPONSOR(S): REPRESENTATIVE(S) KNOPP

05/15/19 (H) READ THE FIRST TIME - REFERRALS
05/15/19 (H) CRA, JUD
03/05/20 (H) CRA AT 8:00 AM BARNES 124
03/05/20 (H) Heard & Held
03/05/20 (H) MINUTE(CRA)
03/10/20 (H) CRA AT 8:00 AM BARNES 124
03/10/20 (H) Moved CSHB 174(CRA) Out of Committee
03/10/20 (H) MINUTE(CRA)
03/11/20 (H) CRA RPT CS(CRA) NT 5DP
03/11/20 (H) DP: CLAMAN, JACKSON, KREISS-TOMKINS,
HANNAN, DRUMMOND
03/16/20 (H) JUD AT 1:00 PM GRUENBERG 120
03/16/20 (H) -- MEETING CANCELED --
03/18/20 (H) JUD AT 1:00 PM GRUENBERG 120

BILL: HB 287

SHORT TITLE: VILLAGE PUBLIC SAFETY OFFICER GRANTS

SPONSOR(S): REPRESENTATIVE(S) KOPP

02/24/20 (H) READ THE FIRST TIME - REFERRALS
02/24/20 (H) TRB, JUD, FIN
02/26/20 (H) JUD AT 1:00 PM GRUENBERG 120
02/26/20 (H) <Bill Hearing Canceled>
03/03/20 (H) TRB AT 8:00 AM DAVIS 106
03/03/20 (H) Heard & Held
03/03/20 (H) MINUTE(TRB)
03/05/20 (H) TRB AT 8:00 AM DAVIS 106
03/05/20 (H) Heard & Held
03/05/20 (H) MINUTE(TRB)
03/10/20 (H) TRB AT 8:00 AM DAVIS 106
03/10/20 (H) Moved CSHB 287(TRB) Out of Committee
03/10/20 (H) MINUTE(TRB)
03/11/20 (H) TRB RPT CS(TRB) 4DP 1NR
03/11/20 (H) DP: KOPP, LINCOLN, ORTIZ, ZULKOSKY
03/11/20 (H) NR: VANCE
03/11/20 (H) JUD AT 1:00 PM GRUENBERG 120
03/11/20 (H) Heard & Held
03/11/20 (H) MINUTE(JUD)

03/13/20 (H) JUD AT 1:00 PM GRUENBERG 120
03/13/20 (H) Heard & Held
03/13/20 (H) MINUTE (JUD)
03/16/20 (H) JUD AT 1:00 PM GRUENBERG 120
03/16/20 (H) -- MEETING CANCELED --
03/18/20 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

DANIEL WEATHERLY, Appointee
Alaska Police Standards Council
Homer, Alaska

POSITION STATEMENT: Offered testimony on his appointment to the Alaska Police Standards Council.

JOSEPH WHITE, Appointee
Alaska Police Standards Council
Ketchikan, Alaska

POSITION STATEMENT: Offered testimony on his appointment to the Alaska Police Standards Council.

ED MERCER, Appointee
Alaska Police Standards Council
Juneau, Alaska

POSITION STATEMENT: Offered testimony on his appointment to the Alaska Police Standards Council.

REPRESENTATIVE GARY KNOPP
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, introduced HB 174.

KERRY CROCKER, Staff
Representative Gary Knopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 174 on behalf of Representative Gary Knopp, prime sponsor.

JON BERRIER, Senior Director
Public Affairs
Juul Labs
Sacramento California

POSITION STATEMENT: Testified in support of HB 174.

ALEX MCDONALD
Fairbanks, Alaska

POSITION STATEMENT: Testified in opposition to HB 174.

SHAUN D'SYLVA, Business Owner
Fat Boy Vapors
Seattle, Washington

POSITION STATEMENT: Testified in support of HB 174.

MARGE STONEKING, Executive Director
American Lung Association
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 174.

EMILY NENON, Alaska Government Relations Director
American Cancer Society Cancer Action Network
Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 174.

ANDREW MERRILL, Captain
Division of Alaska State Troopers
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions pertaining to CSHB 287 (TRB).

KATHRYN MONFREDA, Director
Division of Statewide Support
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions pertaining to HB 287.

MICHAEL NEMETH, VPSO Program Coordinator
Aleutian Pribilof Islands Association
Anchorage, Alaska

POSITION STATEMENT: Answered questions pertaining to HB 287.

KEN TRUITT, Staff
Representative Chuck Kopp
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions pertaining to HB 287 on behalf of Representative Kopp, prime sponsor.

ACTION NARRATIVE

[1:11:25 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:11 p.m. Representatives Claman, Kopp, Drummond, Stutes, and LeDoux were present at the call to order.

CONFIRMATION HEARING(S):
Alaska Police Standards Council

[1:12:00 PM](#)

CHAIR CLAMAN announced that the first order of business would be the confirmation hearings for the Alaska Police Standards Council.

[1:12:16 PM](#)

CHAIR CLAMAN opened public testimony on the confirmation hearings for the Alaska Police Standards Council.

[1:13:05 PM](#)

DANIEL WEATHERLY, Appointee, Alaska Police Standards Council, offered testimony on his appointment to the Alaska Police Standards Council (APSC). He stated that he had sent his resume via e-mail to the committee members [hard copy included in the committee packet], and he did not have anything to add to that but could go through it for the committee. He said that he grew up throughout most of the United States with three years spent overseas in Europe, graduated high school, and then attended Briar Cliff College in Iowa, San Francisco University, and the University of Alaska campuses in Ketchikan, Anchorage, and Homer.

MR. WEATHERLY stated that he was in the U.S. Coast Guard for four years, the last two years of which were spent in Ketchikan. He said that when he got out of the U.S. Coast Guard he served as the seasonal state park ranger in Ketchikan, and for two years he was a full-time firefighter with the Ketchikan Fire Department. He stated that he left Ketchikan to join the Alaska State Troopers, and his assignments were at the academy in Sitka and patrols in Anchorage and Valdez during pipeline construction. He said that he returned to Anchorage doing statewide criminal, and after three years transferred to Kotzebue as the post supervisor for all the villages in the Nana Region. He stated that while he was stationed in Kotzebue the original Village Public Safety Officer (VPSO) program was started, and he was part of the original group of troopers working to get the program implemented, organized, and

functional. He remarked that during his last year in Kotzebue there were 10 VPSOs, 3 constables, 1 trooper, and himself. He said that he was involved in the hiring, selection, training, supervision, and evaluation of individual VPSOs.

MR. WEATHERLY stated that his next assignment was as post supervisor to several villages outside of Seldovia city limits. He said that while stationed in Homer, he served on several nonprofit boards. He remarked that for four years he was the only enforcement representative on a community mental health board in Homer, Alaska, and when the city commissioned for a new police station he retired from the State of Alaska after 22 years and worked for the city of Homer for 3 years. He then left the area and worked on the North Slope at the alpine camp for 14 years and 8 months as a contract employee for International Services at ConocoPhillips. He stated that he retired in 2015. He remarked that his wife and family have lived in Anchor Point since 1983.

MR. WEATHERLY expressed that his interest in serving on the APSC is fairly simple, as most of his time in service was as a state trooper living in small communities in villages and rural areas, and he worked, explored, and traveled across Alaska, from Ketchikan to the North Slope and "off-the-chain through Adak." He said that while with the troopers, he accumulated approximately 2,000 hours in training and an advanced certificate as a certified instructor. He expressed that the state has invested considerable time and expense in his development as a trooper, and he would like the opportunity to "make a return on that investment."

[1:17:29 PM](#)

CHAIR CLAMAN asked Mr. Weatherly whether he had served any prior terms on the APSC or this would be his first.

MR. WEATHERLY replied that this would be his first term.

[1:17:52 PM](#)

REPRESENTATIVE KOPP remarked that he was pleased to see Mr. Weatherly putting his name forward and remarked that he didn't realize he had worked in the Coast Guard as well. He expressed that he was very pleased to support Mr. Weatherly in his appointment.

[1:18:42 PM](#)

JOSEPH WHITE, Appointee, Alaska Police Standards Council, offered testimony on his appointment to the Alaska Police Standards Council. He stated that he is currently the chief of police in Ketchikan and is coming up on his twenty-fourth year with the department. He said that he has been the chief of police for the last three years and during that time had worked most positions within the police department and has received thousands of hours of training, some of which was at the Federal Bureau of Investigation (FBI) National Academy in 2013. He stated that he sits as chair on the local Emergency Planning Commission and sits on domestic violence and sexual assault task forces in Ketchikan, which work unilaterally with other agencies. He said that he currently serves on APSC and has done so since May 2018. He expressed that he brings good judgement to the board and likes to listen to all sides of an issue before making decisions. He stated that the decisions APSC makes have grave consequences for many people; it is a serious job to maintain the standards of law enforcement within the state. He remarked that he enjoys serving with the current board members.

[1:20:57 PM](#)

ED MERCER, Appointee, Alaska Police Standards Council, offered testimony on his appointment to the Alaska Police Standards Council. He stated that he has served on APSC since Fall 2019, and he stated that this was his first confirmation to the board. He explained that he is the chief of police for the Juneau Police Department. He said that he was born and raised in Alaska, grew up in Sitka, and appreciates the opportunity to serve on APSC. He stated that he has been in law enforcement for 27 years, starting his career at the Sitka Police Department in 1992 and transferring to the Juneau Police Department in 2000. He expressed that he has had many opportunities to advance his career during his tenure in Juneau and has made his way through the ranks from officer to chief. He said that he has received thousands of hours of police training throughout his career, ranging from basic police procedures to more advanced supervision management and executive level command school.

CHIEF MERCER said that he holds a Bachelor of Science Degree in Criminal Justice from Herzing University, and he graduated from the FBI National Academy. He stated that he currently serves on the Alaska Association of Chiefs of Police, a working group known as FBI Criminal Justice Information System for the Northwest Working Group, and the Alaska High Intensity Drug

Trafficking Areas Board. He pointed out that he has previously served on several local boards, task force committees, the local Emergency Planning Committee, and the local Homeless Task Force in Juneau.

CHIEF MERCER stated that he enjoys serving on boards and law enforcement, because he has a strong purpose to serve, has a good understanding of police professionalism and accountability, and can share his experiences with the board as a critical thinker who is methodical in decision making. He explained that some of the decisions APSC makes are very impactful for individuals, especially to livelihood. He expressed that he has a strong desire to keep the law enforcement profession credible by having uniform standards for all Alaska law enforcement. He stressed accountability and said that he thinks police departments need a system of internal checks and balances to ensure that they uphold standards. He summarized that these are some of the reasons that he feels he is suited to serve on APSC.

[1:23:58 PM](#)

CHAIR CLAMAN stated the final appointee was Jennifer Winkelman, but that his office had received a communication that she was under the weather and would not be able to offer spoken testimony at the meeting. He said that there was written testimony from Jennifer Winkelman for the committee to review [hard copy included in the committee packet.] He noted that she is a reappointment to APSC and is currently serving on the board through previous approval. He stated that she is someone that is known for her work with the Department of Corrections and she is seen in the Capitol Building with some frequency.

[1:24:55 PM](#)

CHAIR CLAMAN, after ascertaining that there was no one else who wished to testify, closed public testimony on the confirmation hearings for the Alaska Police Standards Council.

[1:25:08 PM](#)

REPRESENTATIVE DRUMMOND commented that she was impressed with the level of professionalism and experience conveyed by all four appointees.

[1:25:40 PM](#)

REPRESENTATIVE KOPP remarked that he wanted to echo Representative Drummond's comments. He noted that Chief Mercer is a very dedicated public servant who has spent all his law enforcement time in Southeast Alaska. He stated that Mr. Truitt, who works with him, provides a very good family reference for Chief Mercer, as his father went to school at Mt. Edgumbe High School, which is where Mr. Truitt's father was a long-time teacher. He commented that he has it on good report that Chief Mercer is not only a good chief in Juneau, but a good man in general, and he expressed that he is proud to support all the appointees.

[1:26:19 PM](#)

CHAIR CLAMAN commented that he would like to echo the comments that were already spoken, and he said that he thinks these are outstanding appointees. He expressed he is glad to see that some who had served previously are willing to continue their service, which he opined "speaks well."

[1:26:36 PM](#)

REPRESENTATIVE KOPP stated that the House Judiciary Standing Committee has reviewed the qualifications of the governor's appointees, and recommends that the following names be forwarded to a Joint Session of the Senate and the House for consideration: Ed Mercer, Daniel Weatherly, Joseph White, and Jennifer Winkelman to the Alaska Police Standards Council. He stated that this does not reflect intent by any of the members to vote for or against these individuals during any further sessions for the purposes of confirmation.

CHAIR CLAMAN announced that the confirmations for Daniel Weatherly, Joseph White, Ed Mercer, and Jenifer Winkelman, appointees to the Alaska Police Standards Council were advanced.

HB 174-MIN. AGE TO POSSESS NICOTINE/ECIG PRODUCT

[1:27:19 PM](#)

CHAIR CLAMAN announced that the next order of business would be HOUSE BILL NO. 174, "An Act raising the minimum age to purchase, sell, exchange, or possess a product containing nicotine or an electronic smoking product; and providing for an effective date." [Before the committee was CSHB 174(CRA).]

[1:27:40 PM](#)

REPRESENTATIVE GARY KNOPP, Alaska State Legislature, as prime sponsor, introduced HB 174. He stated that in the past year the federal government had raised [the age requirement for purchasing tobacco and products containing nicotine] to 21 years, from 18 or 19 years of age. He remarked that the proposed legislation would simply raise the age in Alaska to bring Alaska's statute into compliance with what the federal government has done. He explained that the reason for this is because, if left as is, there would be discrepancies: If someone sold to individuals under 21 years of age, then only federal penalties would apply; but if sold to someone under 19 years of age, then state penalties would apply. He said that there is an ambiguity between the ages as to which laws would apply, and the state penalties are slightly harsher than what the federal guidelines are. He summarized that the proposed legislation would bring Alaska into compliance by raising the age to 21; it would change nothing else.

[1:29:32 PM](#)

REPRESENTATIVE LEDOUX asked why it is so important to have Alaska's tobacco laws in compliance, when there are marijuana laws that are clearly not in compliance with federal laws, and she said, "We seem to be living through that."

REPRESENTATIVE KNOPP answered that it is "apples to oranges," as the federal government does not regulate or allow marijuana whatsoever. He said that age limits for the sale of tobacco products exist in state and federal law, and it is important to avoid a conflict between law enforcement and the judicial system, as it "keeps it clean." He stated that "important" would be a matter of opinion for some people, and he thinks it is important in the judiciary process penalty phase to be consistent in what is adopted.

REPRESENTATIVE LEDOUX commented that this is a difference of opinion.

[1:30:48 PM](#)

KERRY CROCKER, Staff, Representative Gary Knopp, Alaska State Legislature, presented HB 174 on behalf of Representative Gary Knopp, prime sponsor. He stated that he could answer Representative Ledoux's question more extensively. He said that one of the important parts of the proposed legislation is that there is approximately \$2.8 million dollars of federal substance

abuse grant money tied to the age change. He said that it is important for the state to realize that down the road, if it doesn't change the age, there will be a risk of losing some of those federal substance abuse grants.

MR. CROCKER stated that HB 174 would change Alaska's statute to match the recently implemented federal guidelines for sale of tobacco products, would raise the legal age from 19 to 21, and would end discrepancies in both statute and enforcement in both state and federal laws. He said that according to the Department of Health and Social Services (DHSS), smoking costs Alaska around \$575 million in direct medical expenses and kills around 700 people annually. He stated that the deaths of Alaskans from smoking costs the state approximately \$261 million annually in lost productivity, and according to the Alaska Youth Survey, 12 percent of male youth and 9 percent of female youth use tobacco products. He explained that the use of tobacco products becomes more prevalent the higher the grade level, starting around 6 percent in Ninth Grade, and getting to around 16 percent in Twelfth Grade. He stated that this increase in the number of youth tobacco users, between the freshmen and senior years, highlights how access to tobacco products leads to tobacco use, and by raising the legal age of tobacco use from 19 to 21, access would be further removed. He said that 89 percent of students who smoke get tobacco products from a peer. He summarized that it is important to match Alaska's smoking statutes with federal guidelines, in order to allow state law enforcement personnel to prevent sales to underage consumers and enforce [penalties for noncompliance]. He indicated that is the intent of CSHB 174(CRA).

[1:33:42 PM](#)

REPRESENTATIVE STUTES remarked that she has heard that there are a lot of hours wasted by employees who smoke during office hours, and she asked Mr. Crocker whether he had any idea how much time is expended by working smokers.

[1:34:09 PM](#)

MR. CROCKER replied that he did not have that information, but he believes it exists.

REPRESENTATIVE STUTES remarked that it does, and said, "You can watch it here."

[1:34:27 PM](#)

REPRESENTATIVE KOPP asked Representative Knopp whether there would be any change to the penalties or only to the age eligibility.

[1:34:41 PM](#)

REPRESENTATIVE KNOPP replied that he appreciated the question as it was a point he wanted to make. He said that his office looked hard at the penalty to see whether there was anything that should be changed, and it was determined that it should stay the same. He explained that the penalties were adopted over many years, by many legislators and lawmakers; they seem to be appropriate and are that to which the public and industry are accustomed.

[1:35:15 PM](#)

REPRESENTATIVE DRUMMOND remarked that she had heard Mr. Crocker say that smoking costs the state \$261 million annually in lost productivity, but that information appears to be related to the deaths of Alaskans, whom she said she assumes were productive people prior to their deaths, "even though they may have spent a lot of time leaving the building to smoke." She commented that the states and the federal government coordinated the age level for liquor consumption 40 or 50 years ago in relation to highway safety maintenance and construction funds. She said that it is about time for that change with tobacco and thanked the bill sponsor for bringing the proposed legislation forward.

[1:36:23 PM](#)

REPRESENTATIVE LEDOUX asked whether the proposed legislation would prevent someone under the age of 21 from selling tobacco as well.

[1:36:45 PM](#)

REPRESENTATIVE KNOPP confirmed that was correct.

REPRESENTATIVE LEDOUX asked whether there would be any kind of grandfather clause, as there are a lot of "kids who are working in, you know, one-person quick-stops and so forth, so they're all going to get fired?"

REPRESENTATIVE KNOPP answered no, they would retain their jobs, and just like the restaurant business where wait staff can bring

water and food but there needs to be someone over the legal age to bring alcoholic beverages, the same would apply where tobacco products are sold.

REPRESENTATIVE LEDOUX remarked that sometimes there is only one person working at these stores and asked how these people would be taken care of if they lose their jobs.

REPRESENTATIVE KNOPP replied that no one would lose their jobs, but during that period there would be no tobacco sales by under aged individuals. He said that store owners are aware of this and would need to make provisions accordingly.

[1:37:34 PM](#)

REPRESENTATIVE KOPP remarked that the proposed legislation has an effective date of January 1, 2021, and he asked whether this was to provide time for public education regarding the change under the proposed legislation.

[1:37:47 PM](#)

MR. CROCKER answered that this would allow the public time to deal with the question raised by Representative LeDoux and allow for time to adjust to the change under the new statute.

[1:38:16 PM](#)

CHAIR CLAMAN opened public testimony on HB 174.

[1:38:42 PM](#)

JON BERRIER, Senior Director, Public Affairs, Juul Labs, testified in support of HB 174. He stated that Juul Labs had submitted written testimony for the record in strong support of the proposed legislation to increase the minimum age for purchase of tobacco and vapor products to 21, in line with the recent federal law passed by Congress and signed by the President [hard copy included in the committee packet.] He reiterated Juul Labs' support for HB 174 and urged the committee and legislature to pass a clean "tobacco 21 bill." He stated that Juul Labs is a leading manufacturer of vaping products as an alternative to combustible cigarettes. He said that progress in reducing youth use of these products will depend on states ensuring that underage sales are halted, and for the new federal law to work appropriately, states should still pass and enforce laws to ensure that retailers sell only to those aged 21 and

over. He opined this is the right policy to pass, and, as incentive, reminded the committee that states that do not adopt strategies to enforce retailers selling to underage individuals risk losing a portion of their federal block grant funding for substance abuse.

MR. BERRIER stated that the mission at Juul Labs is to transition the world's one billion adult smokers away from combustible cigarettes, and it pursues this mission while actively combatting underage use of its products. He said that Juul Labs believes that raising the minimum age is a critical step in combatting underage use of cigarettes, other tobacco products, and vapor products. He pointed out that nearly 94 percent of smokers started before the age of 21, and approximately 80 percent of underage users access vapor products through social sourcing, which is attaining vapor or tobacco products from legal age adults, usually a friend or sibling. He stated that underage use is antithetical to Juul Labs' mission, and it has taken definitive actions in restricting it, including voluntarily discontinuing some of its flavored products other than tobacco and menthol, restricting sales on its e-commerce platform through industry leading age verification technology, suspending all advertising and promotion of products through broadcast media, print, and digital channels, and instituting a three-strikes policy as part of its secret-shopper program to prohibit retailers from selling Juul products for at least a year if they incur three violations.

MR. BERRIER summarized that he thinks Juul Labs shares a common goal with everyone that is in the policy maker, regulator, and parent realm, in that it wants to prevent the underage use of these products; therefore, Juul Labs respectfully urges the committee and the Alaska State Legislature to pass HB 174, as a clean tobacco 21 bill.

[1:41:29 PM](#)

ALEX MCDONALD testified in opposition to HB 174. He stated that young adults are currently taking a huge hit in Alaska. He explained that college students were ordered out of their dorms without an option of a place to live and no word on refunds for meal plans or housing, and he said that a lot of the students will be without jobs with the restaurant closures; he remarked that he had worked as a cook through college. He stated that half of the troops currently in Iraq are from Fort Wainwright and questioned whether their stay over there might be extended due to the new travel bans.

MR. MCDONALD expressed that these young adults are fighting for this country, and the legislature should be hearing legislation on how to help them, instead of restricting their freedoms and job opportunities during this time. He asked what store would hire a 20-year-old that could not perform all the duties at a gas station. He expressed that there are "bigger fish to fry," and said that Idaho had just voted down similar legislation, stating that there are many dangerous things in life, with war being one of them. He said that it is not questioned when 18- to 20-year-olds are sent to war and asked to maintain aircrafts, machinery, and weapons. He expressed that these are adults who should be allowed to make adult choices. He asked that the legislature please stay focused on the issues that currently face the state, and he said that the proposed legislation is not a major issue. He pointed out that people would soon be out of jobs, tourism would be taking a hit, and ConocoPhillips just announced curtailing activities on the North Slope. He added that businesses are facing uncertainty as to whether they would be able to open tomorrow, and Alaskans need reassurance that things are going to continue as normal. He summarized that restricting peoples' freedoms in a time like this was backwards, and he said that people should be able to live their lives.

[1:44:14 PM](#)

SHAUN D'SYLVA, Business Owner, Fat Boy Vapors, testified in support of HB 174. He stated that he has adult vapor stores located in Fairbanks, Anchorage, and Wasilla. He said that the federal age was changed recently, and many states are working on legislation to move that forward. He remarked that as someone who has been on the frontlines of helping adults stop smoking by using vapor products, he is concerned about youth access and said that many underage users have been getting products through social circles, including friends and family of legal age to purchase, which in Alaska is 19 years old. He said that his business is very supportive of switching that age to 21, to ensure that youth do not have easy access and to not create more of a problem in the future. He expressed that as a business owner in Alaska, who has many customers that have stopped smoking, who had begun prior to the age of 21, some as young as 12 or 13 years old, he thinks that this would be a tremendous step in ensuring that there are not underage users. He strongly encouraged passage of HB 174.

[1:46:03 PM](#)

MARGE STONEKING, Executive Director, American Lung Association, testified in support of HB 174. She expressed thanks to the committee for continuing to serve Alaskans while keeping themselves and the public safe through public health practices. She stated that Alaska is facing a current youth e-cigarette epidemic, as is the nation, which was identified by the U.S. Surgeon General and the U.S. Food and Drug Administration (FDA). She said that raising the minimum age for tobacco products to 21 can help save lives and [prevent] economic damages caused by tobacco use in Alaska. She stated that youths are especially vulnerable to the impacts of vaping, including nicotine addiction, dangers to developing lungs by inhaling harmful ultra-fine particles, heavy metals and chemicals, and negative brain development impacts of nicotine. She said that HB 174 offers one strategy to safeguard lung health by increasing the state's tobacco use age. She stated that the American Lung Association urges support of HB 174.

MS. STONEKING stated that when President Trump signed "the spending bill" on December 20, 2019, which included raising the legal age of purchase of tobacco products nationwide from 18 to 21, this was a major accomplishment for public health, and the American Lung Association and its other public health partners cheered this on. She said that at that time, the FDA had announced that "tobacco 21" took effect when the President signed the bill. She said there were no exemptions, including for military personnel anywhere in the U.S. or on tribal lands. She stated that enforcement is handled primarily at the state level, particularly in Alaska. She said that in 2013 state law was strengthened and Alaska has maintained compliance with the requirement that keeps it in compliance for mental health funding; in fact, it has exceeded the requirement with only 5 percent of endorsement license holders not passing compliance checks.

MS. STONEKING summarized that the underage enforcement program works effectively, and the age needs to be updated from 19 to 21 to reflect the new federal law.

[1:48:59 PM](#)

REPRESENTATIVE DRUMMOND remarked that she was unclear on what the Synar Amendment is.

MS. STONEKING replied that the Synar Amendment was named after a former member of Congress, and it is the mandate for maintaining a certain level of compliance with federal checks, in order to

maintain critical federal mental health and substance abuse grant funds, as mentioned previously.

[1:49:40 PM](#)

EMILY NENON, Alaska Government Relations Director, American Cancer Society Cancer Action Network, testified in support of HB 174. She expressed gratitude to Chair Claman, members of the committee, and colleagues and staff for maintaining and continuing the work of the state during some very challenging times. She stated that the American Cancer Society Cancer Action Network supports the regulatory update, in order to match the federal regulation. She expressed that Alaska is proud of a very successful compliance check program, including vendor education. She said that Joe Darnell, who heads up that program was on the line if anyone wanted more details about that program, and she said that there is a model program across the state.

[1:50:42 PM](#)

CHAIR CLAMAN, after ascertaining that there was no one else who wished to testify, closed public testimony on CSHB 174(CRA).

[1:50:55 PM](#)

The committee took an at-ease from 1:51 p.m. to 1:52 p.m.

[1:52:05 PM](#)

CHAIR CLAMAN stated that while off record a brief conversation took place among the members of the committee to see if anyone had any amendments they were planning to offer, and it did not appear that there were any. He stated that as chair, he was exercising his authority to waive the second hearing of CSHB 174(CRA), and he invited committee comment.

[1:52:35 PM](#)

REPRESENTATIVE LEDOUX remarked that this is a society in which 18- and 19-year-olds can go to war, get married and divorced, can probably take flying lessons and skydive, be part of the commercial fishing industry - which she said is probably the most dangerous industry in the world - join circuses on the trapeze, horseback ride, and all sorts of things. She expressed that the idea that the laws need to change to conform to the federal regulation, with which she disagrees, while the state is

not concerned with having laws in sync to the federal government regarding marijuana, is hard for her to understand. She said she thinks much of the testimony on CSHB 174(CRA) came from individuals who would really like to say that there should be a law that no one can smoke at all, whether they be 19 or 91. She remarked, "As I say, I can count, so you're going to do what you're going to do."

[1:54:17 PM](#)

REPRESENTATIVE KOPP commented that he appreciated the bill sponsor bringing the proposed legislation forward and noted that "this body unanimously passed a joint resolution in 2018 with the Senate, calling on Congress to align federal and state penalties, with respect to marijuana use." He said that he thinks this gets at what the bill sponsor was driving at, which is that enforcement is a real issue. He said that a licensed premise, selling both cigarettes and alcohol, could run into issues in the enforcement of checking licenses for individuals buying products, when the minimum age for alcohol is 21, and the minimum age for cigarettes is 19. Sometimes staff make mistakes when checking identification all day, and uniformity always makes enforcement easier. He expressed that he thinks an under-21 general standard would be a good policy.

REPRESENTATIVE KOPP, referencing a comment made by Representative LeDoux, stated that he was very sympathetic to impingement on freedoms, but the one thing different from other risk-taking activities that is addressed by the proposed legislation, is the public health crisis surrounding tobacco use. He explained that over 700 Alaskans die annually from smoking related deaths, which costs the state over \$500 million. He said that the data points in the statewide smoking ban bill from a few years prior sound accurate to him. He stated that there are many behaviors of risktakers where the risk is only to them; however, smoking is a behavior that affects everyone around them. He expressed that no right or freedom is absolute, and this is a right that directly impinges on other people's quality of health, and in light of the current public health crisis, he said that he sees the proposed legislation as an on-point public health bill that the industry supports, including the people selling vapes. He said that overall he thinks it would be a good policy, and he thanked Representative Knopp for bringing it forward.

[1:57:14 PM](#)

REPRESENTATIVE DRUMMOND reiterated that she thinks it is about time the state got coordinated, as liquor laws were brought to the same age limits across the nation decades ago. She stated that tobacco and vaping products contain highly addictive drugs, as well as highly damaging components, which she said she knows will contribute to illness in many people as "this wave of Coronavirus hits us." She opined that the earlier the public health can be protected, by keeping children from getting addicted until they are older and can make these decisions with a clear head, the better off everyone will be.

[1:58:40 PM](#)

REPRESENTATIVE STUTES commented that she found it refreshing to see the letter from Juul Labs, which is a provider of some of the "smoking paraphernalia," support the proposed legislation, as usually the providers and manufacturers are "screaming bloody murder, don't do it, don't do it!" She said that this really speaks volumes to her, and she is delighted to see support from the industry for the proposed legislation.

[1:59:24 PM](#)

CHAIR CLAMAN commented that he appreciated the question Representative LeDoux raised regarding alcohol. He remarked that when he was in college in Texas many years ago, beer and liquor could be purchased at the age of 18, and when he went to college in Colorado "3.2 beer," which was 3.2 percent alcohol, could be purchased at 18, but anything else could not be purchased until 21. He expressed that he grew up in a time when alcohol could be accessed at the age of 18, and he said that he had friends and colleagues who joined the military, and the age was raised and people could go to war but not drink alcohol, which he expressed he always thought was absurd at some level; however, he said that he also saw some of the reasons that the public liked the change. He stated that he sees tobacco in the same light as alcohol, in that they are both public health problems. He said that he thinks a good civil Libertarian argument could be made that the age should be the same for alcohol and tobacco sales, but that the damage done by both products as a result of not restricting access can be seen; therefore, he said that he leans more willingly towards making the limits than he did when he was 18 or 19. He expressed that a critical part of the issue is that Alaska has significant substance abuse issues in its communities, and by changing the age, it could allow for accesses to additional federal funds for rehabilitation and treatment, and he said that he has a hard

time not taking steps that would support that, which is the biggest factor in his support for the proposed legislation.

[2:01:22 PM](#)

REPRESENTATIVE KOPP moved to report CSHB 174(CRA) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 174(CRA) was reported from the House Judiciary Standing Committee.

[2:02:11 PM](#)

The committee took an at-ease from 2:02 p.m. to 2:05 p.m.

HB 287-VILLAGE PUBLIC SAFETY OFFICER GRANTS

[2:05:03 PM](#)

CHAIR CLAMAN announced that the final order of business would be HOUSE BILL NO. 287, "An Act requiring background investigations of village public safety officer applicants by the Department of Public Safety; relating to the village public safety officer program; and providing for an effective date." [Before the committee was CSHB 287(TRB).]

[2:05:52 PM](#)

REPRESENTATIVE LEDOUX asked whether this was the proposed legislation which would be "80 percent for government, 20 percent for the PFD," or whether that was a different bill.

CHAIR CLAMAN clarified that this is the proposed legislation pertaining to the Village Public Safety Officer (VPSO) program. He remarked that the proposed legislation Representative LeDoux was referring to had not passed out of the House State Affairs Standing Committee and was not before the committee.

[2:07:08 PM](#)

CHAIR CLAMAN remarked that the Department of Public Safety (DPS) had expressed some concerns with the proposed legislation regarding felonies, and if those were addressed, then the department would not have objections to CSHB 287(TRB). He asked the bill sponsor for more information pertaining to the felony backgrounds and asked whether there was a fix for the proposed legislation that has the support of DPS. He then noted that there was a representative from DPS who could answer questions.

2:08:30 PM

REPRESENTATIVE KOPP, as prime sponsor of HB 287, answered that the question came up about whether there should be the same qualification standard eligibility to serve as a VPSO as any other law enforcement job class, which currently requires no felonies. He said that originally, when the language was adopted, it came out of a recognition that in many of the rural areas with the highest incidents of violence, assault, and substance abuse in the state, there are some outstanding young men and women who did not come out unscathed, but who have the trust of their villages and communities. He said that it was asked whether there should be a standard that if an individual has no prior sex offense or crime-against-a-person convictions but had a drug or alcohol possession felony that was over 10 years old, should there be a lifetime ban? He said that there was good discussion around the issue, and the result was the determination that it is difficult to have different background qualifiers for different job classes, and much like standardizing the age of 21 as seen in previous legislation, it would be easier if there was a standard of no felonies. He expressed that this would hit some people harshly, as not all felonies are the same; for example, he said that first time drug possession convictions are now misdemeanors but would still be disqualifiers. He said that after talking with the grantees, they feel comfortable leaving it as a no felony standard, and he said that he is amenable to that.

2:10:49 PM

CHAIR CLAMAN remarked that the existing version of the proposed legislation allows for some felonies under certain circumstances, and he asked whether Representative Kopp's suggestion was that the proposed legislation would be amended to make it so that the only prior convictions that would be permitted for employment would be misdemeanors.

REPRESENTATIVE KOPP answered that is correct.

CHAIR CLAMAN asked Captain Merrill what the department's perspective was on working an amendment into the proposed legislation so that the only crimes an individual could have convictions for and still get hired as a VPSO would be misdemeanor crimes, and all felonies would be barriers.

2:11:48 PM

ANDREW MERRILL, Captain, Division of Alaska State Troopers, Department of Public Safety, responded that this change would reinstate the current language in the VPSO regulations of felony convictions being disqualifiers, and he said that this would absolutely be a step in the right direction, which DPS would support.

CHAIR CLAMAN asked what should be done to address someone who has a felony conviction over 10 years old that would be a misdemeanor conviction under current laws. As an example, he remarked that someone could have a 15-year old possession of cocaine conviction, which would be a misdemeanor under current law.

CAPTAIN MERRILL answered that under current regulation that would be a disqualifier and that individual would not be eligible for hire, regardless of when the conviction took place. He added that if someone is convicted of a felony at any time, he/she would not be eligible.

CHAIR CLAMAN asked both Captain Merrill and Representative Kopp whether there was a reason to try to make provisions for old felonies that would be misdemeanors under current law, [for the sake of] employment eligibility.

CAPTAIN MERRILL replied that he is not a lawyer and might need to ask "law" to weigh in, but on his side of the issue he thinks the simplest thing for consistency would be that a felony conviction at any time would be a disqualifier.

[2:13:23 PM](#)

REPRESENTATIVE KOPP answered that he agrees with Captain Merrill, and that conduct that was considered a felony at the time it was done should be viewed as a disqualifier. He expressed that this is a delicate issue on which he has listened to the perspective of DPS and the grantees, and they would like to have the regulation maintained as a no-felony status.

CAPTAIN MERRILL remarked that he had not answered the part of Chair Claman's question pertaining to misdemeanors. He said that removing the felonies was important, but that domestic violence misdemeanor convictions should be maintained as disqualifiers.

[2:14:30 PM](#)

The committee took a brief at-ease at 2:14 p.m.

2:14:53 PM

REPRESENTATIVE KOPP stated that he recognizes that the current DPS regulation is no domestic violence assault misdemeanors within 10 years, and the proposed legislation is consistent with that.

2:15:30 PM

CHAIR CLAMAN asked whether Captain Merrill or Representative Kopp could identify other issues that the state troopers have with the proposed legislation that there has been some effort to resolve over the last few days. He remarked that he is trying to take the committee down the path of what is being done to address concerns and determine whether these changes would satisfy the troopers.

REPRESENTATIVE KOPP answered that they may not ever get everyone satisfied but were doing the best they could to bring out a good piece of legislation. He stated that other concerns were that the language that sets the standard for good moral character as a minimum qualification for VPSOs and probation officers, also be applied to every job class of police officer, as this class is given law enforcement duties. He stated that a recommendation from the Department of Law (DOL), which he said that he agrees with completely, is to insert language that refers to a person being of good moral character and someone who has not been convicted of a crime of moral turpitude, which includes bribery, deception, and fraud. He stated that in light of this recommendation, his office had worked on a proposal that it would bring before the committee at the right time.

2:17:51 PM

CHAIR CLAMAN asked Representative Kopp whether he has had a chance to speak with Captain Merrill or others from DPS about the moral character language as described.

2:18:04 PM

REPRESENTATIVE KOPP answered that the only person he had spoken with was Mr. Skidmore at DOL, and he had not spoken with anyone at DPS about this.

2:18:22 PM

CAPTAIN MERRILL remarked that this was one of the recommendations DPS had made, and he said that it appreciates that the bill sponsor is considering amendments that DPS thinks are very important to include in the proposed legislation. He stated that domestic violence is very complex because there are domestic violence convictions allowed under current regulations, which was brought up as part of a discussion among the 10 grantees and DPS over the last couple of years regarding hiring applicants with prior domestic violence convictions. He said that DPS has noticed over the past couple of years that none of the grantees have hired any applicants with a domestic violence conviction, because of challenges it creates in application in the field.

CAPTAIN MERRILL explained that it is like what he discussed at the previous meeting regarding felonies and possession of firearms. He said that there are certain classes of domestic violence convictions that are permanent disqualifiers for someone to possess a firearm or ammunition. He stated that the challenge comes from having to look closely at how a person was convicted and what they were convicted of; was it a person in the household or a direct family member? He said that while the state has classifications for domestic violence convictions up to the fourth degree of consanguinity, the challenge becomes that some of those are not permanent disqualifiers, and it is difficult to separate those. He said that while current regulation allows this, DPS has had concerns over the last several years for that allowance, because if VPSOs move toward being fully capable of carrying firearms, or if VPSOs convicted of a disqualifier are sent to the academy and participate in firearms training, then they could be violating federal law.

CAPTAIN MERRILL said that Kathryn Monfreda might be on the line to offer more information on the topic, and he said that there are some prohibitors that DPS would like to continue discussion on to ensure people, who might have those prohibitors are not being put into a weird situation. He expressed that he is not certain that a blanket domestic violence disqualifier is the right answer, but that is something that needs to be looked at more closely.

2:20:45 PM

CHAIR CLAMAN remarked that what he was hearing is that there is a regulation that suggests that after 10 years an individual

could still get hired, but in the field in practice no one is getting hired, in part because of the difficulty which arises that some domestic violence convictions create a permanent ban on weapons possession, which makes it nearly impossible to hire someone because it is almost guaranteed that there will be situations in which a VPSO would need to take possession of a weapon in the course of his/her work. He asked Kathryn Monfreda whether she could offer more insight into the issues regarding domestic violence convictions and how easy it is to navigate a 10-year period for eligibility.

[2:21:52 PM](#)

KATHRYN MONFREDA, Director, Division of Statewide Support, Department of Public Safety, answered that there has been a lot of case law in recent years regarding misdemeanor crimes of domestic violence, and an early U.S. Supreme Court decision in 2006 led to the conclusion that none of Alaska's misdemeanor crimes of domestic violence fit the federal prohibitor. She said that a couple of years ago that ruling was overturned and the U.S. Supreme Court ruled differently, determining that some misdemeanor crimes of domestic violence, depending on the relationship between the offender and the victim and the degree of force used, could be misdemeanor crimes of domestic violence that are prohibitors under federal law. She said that it is probable that the VPSO regulations were written under the old U.S. Supreme Court rulings, which is why it could be put in that after a certain period of time had lapsed someone could be a VPSO, but under current law and the U.S. Supreme Court ruling, there is no relief from that prohibitor if barred under federal law. She remarked that she checked with the Federal Bureau of Investigation (FBI) National Instant Criminal Background Check System (NICS), which is the expert on the topic, and it confirmed that there is no way to get relief from that disability, regardless of time.

[2:23:31 PM](#)

REPRESENTATIVE KOPP asked whether the domestic violence prohibitor was in respect to carrying a firearm in the course of duty, which he said he thinks it is, and asked whether it also plays into the Criminal Justice Information Services (CJIS) access or was not an issue with domestic violence.

MS. MONFREDA answered that the prohibitor would deny CJIS access for a misdemeanor crime of domestic violence, but a waiver could be requested of that denial by providing the circumstances of

why the conviction should not be considered a prohibitor. She added that this does not impact the federal possession or transfer of firearms and ammunition.

[2:24:34 PM](#)

CHAIR CLAMAN asked whether an individual, even if he/she could have access to the CJIS database, could not take possession of a firearm during his/her duties and take it from someone's house back to the VPSO station.

MS. MONFREDA answered that that is correct.

[2:24:52 PM](#)

REPRESENTATIVE KOPP remarked that this is an issue, like the felonies, in which he wants to find the path that suits the public safety process the best. He said that Michael Nemeth, a VPSO coordinator with a lot of experience in this area, was online.

[2:25:23 PM](#)

CHAIR CLAMAN asked Mr. Nemeth whether he had been following the current discussion regarding misdemeanor domestic violence convictions.

[2:25:35 PM](#)

MICHAEL NEMETH, VPSO Program Coordinator, Aleutian Pribilof Islands Association, answered that he had been following the current discussion. He remarked that Ms. Monfreda had commented earlier on the domestic violence prohibitor, and the fact that there are portions depending upon family member and severity of the domestic violence conviction that would not be addressed under the federal provision. He said this could be a situation where two college roommates get into a "bit of a scuffle," one is arrested and convicted, and 15 years has passed. He said this conviction might not be covered under the federal provision that would prohibit the possession or receipt of a firearm or ammunition. He asked Ms. Monfreda for clarification on the topic.

[2:27:00 PM](#)

CHAIR CLAMAN asked Ms. Monfreda whether she could draw some distinction between the relationships that create a federal

barrier and the relationships that do not, under which the 10-year provision would not make any difference.

[2:27:17 PM](#)

MS. MONFREDA answered that the federal requirement is that there must be an intimate relationship between the victim and offender, so Mr. Nemeth was right; if it was two [college roommates] that got into a fight, then it would not be a federal prohibitor. She explained that there is a list of specific relationship requirements for prohibitors under federal law, which includes an intimate partner, spouse, and stepparent of a child who is neglected or abused.

CHAIR CLAMAN commented that he thinks the point Ms. Monfreda was making is that there are four or five categories that are prohibited and several other categories that are not, but when trying to decide whether the ban is a lifetime ban, it can be complicated.

MS. MONFREDA confirmed that was correct. She said the relationship of the victim and the offender needs to be determined under federal law, not state law. She explained that state law is much broader as far as domestic relationships go.

CHAIR CLAMAN asked Mr. Nemeth whether he had been hiring anyone with domestic violence convictions at all, or whether the confusion and challenges had put up a barrier that effectively stops hiring anyone with domestic violence convictions.

[2:28:50 PM](#)

MR. NEMETH answered that in the 18 years he has been a VPSO for his organization, and the 8 years as a VPSO coordinator, he has not hired someone with a domestic violence conviction of any kind. He said that this has not affected his organization, but he sees how a domestic violence conviction that did not fit the federal guideline, like two brothers or two roommates, could affect the ability for an organization to hire someone down the road.

CHAIR CLAMAN asked Representative Kopp what other issues he was seeking to address, in terms of amending the proposed legislation.

[2:29:51 PM](#)

REPRESENTATIVE KOPP answered that there were a few more items he wanted to address. He stated that in CSHB 287(TRB), page 6, there is reference to federally recognized tribes, and he said that the reason for that is that this is what all the grantees are. He commented that the grantees have formed nonprofit entities to partner with the state in delivering public safety services. He said that there are 229 federally recognized tribes and only 10 grantees, and it was found that this language had the unintended result of raising the concern among the grantees as to whether they had the money for 229 entities to form partnerships with the state VPSOs, and the fact is that the entities that want to deliver public safety this way are already doing so. He stated that it was not the intention to open the program up to all 229 potential applicants, but to have the ten tribes that do partner with the state stay healthy. He expressed that there are limited funds as it is, and the recommendation is to delete that reference from the proposed legislation to make it clear that the program is not being opened to all 229 tribes. He said that if a new entity wanted to partner with the program, it would not be disqualified from doing so.

CHAIR CLAMAN asked whether Representative Kopp also wants to remove the reference to "federally recognized tribes" that occurs [in Section 3, subsection (b)], on page 4, [lines 5-6].

REPRESENTATIVE KOPP confirmed that is correct.

CHAIR CLAMAN asked Captain Merrill or Ms. Monfreda whether those changes to page 4 would resolve one of the concerns that DPS has raised.

[2:31:43 PM](#)

CAPTAIN MERRILL answered that from his perspective, there is no specific issue with the addition of the federally recognized tribe language; however, he did note that it would make all the tribes eligible. He stated that in his experience in operating the VPSO program since 2014, he has been approached by individual tribes that were interested in operating the program that were not eligible because they were not nonprofit, because they were not happy with the interaction between their villages or tribes and the nonprofits for their regions. He said that he does not know that DPS has any concerns with that specific language being included, or excluded, from the proposed legislation.

CHAIR CLAMAN asked Representative Kopp what other issues he had looked at in terms of potential amendments.

[2:32:33 PM](#)

REPRESENTATIVE KOPP answered that there were two other issues that he had not yet addressed, which deal with standardizing regulations pertaining to the possession of drugs. He said that the standard for police officers, VPSOs, probation officers, and parole officers is that an individual cannot have possessed illegal drugs within ten years, unless that individual was under the age of 21. He said that a drafting oversight resulted in the portion that specifies unless someone is under 21 not appearing in the proposed legislation, which would make it stricter than the regulations for the other job classes. In response to a follow up question, he confirmed that this was a change he wanted to make through an amendment.

CHAIR CLAMAN asked Captain Merrill whether the troopers would have any problem with that change.

[2:33:38 PM](#)

CAPTAIN MERRILL answered that the more closely the proposed legislation resembles the standards for other police officers based on the language used in previous hearings, which said the VPSOs should have more authority and more of a breadth-of-scope of work, the better. He added that the troopers think it is appropriate that it mirror very closely what is required under the Alaska Police Standards Council (APSC) standards.

[2:34:04 PM](#)

REPRESENTATIVE LEDOUX asked whether there would be "competitive bidding" if a tribe wanted to get involved in the program. She asked whether that was something done currently and whether the federally recognized tribe language being removed from the proposed legislation would allow for competitive bidding. She remarked she knows that some of the entities charge a lot more than other entities when it comes to overhead charges; therefore, competition would not necessarily be a bad thing.

[2:35:04 PM](#)

REPRESENTATIVE KOPP replied that there were a couple of things touched on by Representative LeDoux that he wanted to address to give context. In terms of competitiveness, he said the

legislature funds a finite line item in the DPS budget for approximately \$11 million, approximately \$2.5 million of which goes to administering the program. He remarked that what is left goes between the ten grantees who develop their budgets based on their differing needs. He explained that the money is apportioned based on need. He expressed that one of the challenges for the current system is a lack of transparency in how these decisions are made; the grantees feel like there is no objective standard as to why a fellow grantee "got this much, and we got this much, and we don't know how those decisions are made." He said that this was one of the things that drove the process.

REPRESENTATIVE KOPP, regarding whether someone new wanting to get into the program could get in, said the answer is yes. As of now they would have to form a nonprofit and partner with the state. He said, "If the complaint is 'I don't like the nonprofit I was thinking of partnering with or a particular tribe,' well these ... are all the entities that are necessarily the partners, so it may not work out for that area." He said that not having the three words "federally recognized tribe" would not stop any tribe that wants to partner with the state from putting together a nonprofit vehicle to do so.

REPRESENTATIVE LEDOUX asked why they would have to put together a nonprofit vehicle. She remarked that Representative Kopp had spoken eloquently on the House floor recently about the need to recognize tribes, and she said that she voted for that legislation partially based on what he had expressed. She said that the proposed legislation is now saying that "you don't necessarily want to deal with tribes, but we need to go through the nonprofits." She expressed that she was confused by this.

REPRESENTATIVE KOPP expressed appreciation for Representative LeDoux's kind words and support on that legislation, and he said that he thinks Mr. Nemeth, who runs a VPSO program, would be well able to explain this topic.

[2:37:41 PM](#)

CHAIR CLAMAN asked whether there was legislation heard just this year that addressed the fact that Tlingit & Haida Indian Tribes ("Tlingit & Haida") have a slightly different qualification, and he asked whether this legislation had passed through the House and the Senate already.

REPRESENTATIVE KOPP answered that that is correct, and it is law now.

CHAIR CLAMAN asked for a "refresher" on what was done earlier with legislation, specifically with the VPSO program and those eligible to be grantees. He remarked that it seemed like the class had been expanded by one, but he said that he recalls some testimony that there "was only ten and no one else is interested, or something to that effect."

[2:38:31 PM](#)

KEN TRUITT, Staff, Representative Chuck Kopp, Alaska State Legislature, on behalf of Representative Kopp, prime sponsor of HB 287, stated that the legislation Chair Claman was referring to was passed in the last session and is current law. He said that it added into statute and is included in HB 287, under subsection (b) of the reenacted AS 18.65.670, on page 4. He explained that it is the same section of the proposed legislation that was previously cited in regard to removing the language "federally recognized tribes." He said that the passed legislation added into statute the phrase "Alaska Native organizations", which has a definition under a different part of the Alaska statutes, in which Tlingit & Haida is referenced. He remarked that the definition of what an Alaska Native organization is, is tightly crafted somewhere else in the Alaska statutes, and this is what allowed Tlingit & Haida to be a program operator as a tribe under the phrase Alaska Native organizations. He expressed he thinks that as the bill drafters made this change, federally recognized tribes were not added in, precisely because of the dynamic that it could potentially open the VPSO program to all 229 entities, and they were not prepared for that. He said he thinks that Representative Jonathan Kreiss-Tomkins was the bill sponsor.

[2:40:35 PM](#)

REPRESENTATIVE LEDOUX remarked that Representative Kreiss-Tomkins' legislation managed to make an exception for Tlingit & Haida to continue to operate, even though it is not a nonprofit corporation. She expressed that she has a hard time seeing why there shouldn't be an amendment allowing for any tribe that wants to apply to operate a VPSO program to be able to, if it feels it could do a better job than that being done currently by another organization. She said that she has represented villages in the past, and sometimes tribal entities think they could do a better job than a regional association. She remarked

that this may or may not be the case, and she asked, "Why not let it be open and let the chips fall where they may?"

2:41:40 PM

REPRESENTATIVE KOPP answered that there are short-term and long-term goals, and the proposed legislation is a "near-term view" of allowing the VPSO program to grow under control. He said that another near-term goal, over the next couple of years, is to move the VPSO program under APSC, but under HB 287 it would remain under DPS regulation as it is currently. He expressed that this was mainly because these are significant policy lifts, and he said that the VPSO work group focused on issues that had "the most immediacy, to achieve the most good in a legislative session that is now overrun with Coronavirus." He remarked that time was short, and Representative LeDoux had brought up a good policy discussion. He expressed that long term, that was the direction that the work group wanted things to go. He said that the grantees who the proposed legislation was for, for rural public safety in rural Alaska, are uncomfortable with "opening it wide open at this time," as the money available to the program would not be increased, aside from another \$1 million that was appropriated, if it "survives." He reiterated that one of the grantees should be allowed to comment on the topic, because it is just a policy call.

2:43:14 PM

MR. NEMETH explained that his organization, Aleutian Pribilof Islands Association, represents 13 tribes in the Aleutian Pribilof Islands Region. He explained that a board member from each of those tribes sits on his organization's board, and there is a resolution through the board which allows his organization to manage the VPSO program for his region. He expressed that he is not certain how other organizations work but said that he thinks they also have board members representing their tribes, or the tribe members at least have access to the board and could bring concerns if they were not happy with the management of their programs. He said that there is one organization representing 13 tribes, with 6 VPSOs within those 13 tribes, because 3 of the larger communities have their own municipal police departments. He remarked that another 20 tribes being allowed to apply on their own and receive funds would make it much more different to manage the program as 30 grantees than as 10 grantees. He commented that he thinks Captain Merrill could speak to his, as he has worked so closely with the 10 grantee organizations over approximately the past five years. He said

that it seems to him like it would be almost an impossible barrier to overcome, with that number of grantees.

2:45:43 PM

REPRESENTATIVE LEDOUX remarked that she agreed with Mr. Nemeth that it would be impossible to change from one grantee to an additional 10 or 15 grantees. She remarked that perhaps it could be structured so that there is a grant for running an entire program in a specific region; as an example, she pointed out the Aleutian Pribilof area. She said that a tribe might think it could run a VPSO program better and cheaper, and the grantor would need to analyze the situation to determine if this might be the case. She stated that when she heard Representative Kopp say that the grantees feel uncomfortable holding it open to anyone else, she thinks that it is similar to a business, such as a bar, being uncomfortable with having more licenses, but this does not necessarily mean that other licenses could not be a good thing.

2:47:13 PM

REPRESENTATIVE KOPP reiterated that there are near-term and long-term goals, and the work group is looking at the best near-term approach that the grantees have identified would allow for the program to grow in a healthy way. He expressed that Representative LeDoux was identifying a future that he thinks is possible, but he reminded her that each grantee acts like a local public safety department, and he reiterated that the tribes are represented on those boards. He pointed out that his staff, Mr. Truitt, was a former VPSO coordinator when he was general counsel to Tlingit & Haida and ran the program in Southeast Alaska. He explained that Tlingit & Haida's board works the same way as Mr. Nemeth had explained his board works; tribes are represented on the boards. He said that Representative LeDoux's suggestion was like asking why a competitive bid wouldn't that be allowed for the Anchorage Police Department, and he explained it would not be allowed because it is a municipality police department. He stated that the tribes have long-standing public safety partnerships that have gone on for decades; it is not like there are a few people waiting in the wings to bid and provide a service. He summarized that a future where more doors are opened could be theorized, but the reality is that the VPSO program is stable and is structured like local public safety, and he said that is the best way he could explain it.

2:48:53 PM

CHAIR CLAMAN remarked that he thinks there are two sides to the question: one side is that if the goal were to make the program more competitive, then those changes should be put in place under statute now; and the other side is that there is not really a worry, as there have been a limited number of entities applying for the program over the years. He expressed that it seems unlikely that someone would apply for the program in the near-term, even if the proposed legislation were to open the program to more entities. He said that he would expect to see the same program operators coming back, as getting dialed up with the level of resources needed to run a program would be problematic.

2:50:01 PM

REPRESENTATIVE LEDOUX remarked that she would agree that she did not envision many people applying for the program; however, she said the program has so many problems with recruitment, retention, and most everything else, that it is not as if nothing needs to be changed and everything is going great. She commented that another entity may, however unlikely, have a good idea, and she asked, "Why would you want to preclude it?"

2:51:05 PM

REPRESENTATIVE KOPP replied that the question has already been asked and answered, and he expressed that he thinks Representative LeDoux is speaking to a future that is desirable. He commented that when opening the door without giving the grantees an adequate understanding of what that might currently look like, the caution received was that the grantees appreciate the direction the VPSO work group wanted to go, but that currently they do not know what that might look like and need time to process it.

2:51:36 PM

CHAIR CLAMAN noted that his sense from DPS was that it does not have a strong position as to whether the language, "federally recognized tribes", should remain in the proposed legislation.

CHAIR CLAMAN noted for the committee that this discussion was a lot of background that would help when getting to amendments. He remarked that it might seem as if this was a more detailed work-through on the proposed legislation than might be seen

usually in this committee but said that he thinks this is part of an effort to move HB 287 forward with some of the limits in time. He remarked that Representative Kopp had commented briefly on a conviction issue, and asked what other issues were on Representative Kopp's list.

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REPRESENTATIVE KOPP replied, "That just about covers it." He said DOL had asked for clarity that the intent is to allow VPSOs to cover multiple villages, and he confirmed that is the intent. He pointed out one section of the proposed legislation, under AS 18.65.670(e) and (f), which seemed to require a VPSO for each village under (e), while (f) said a VPSO could cover multiple villages. He said [the working group] was looking at language to clarify that while villages do partner with the state in this program, it is not the intent of the proposed legislation that a VPSO would not be allowed to go out of a village to a neighboring village, if that is where the need is.

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CHAIR CLAMAN remarked that he knew Representative Kopp had met with DOL, and he requested that Representative Kopp's office also communicate directly with Captain Merrill to share proposed amendments. He said that while he acknowledges that at some level the DOL should be speaking on behalf of the troopers, he recognizes that it can be helpful to have the perspective of the troopers. He shared that he had been working on a different bill, and the DOL criminal division seemed content, but a couple of police departments had some questions, and so he had asked that they coordinate with Captain Merrill, so Captain Merrill had an opportunity to review proposed amendments.

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CHAIR CLAMAN announced that CSHB 287(TRB) would be held over for further review.

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ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:56 p.m.