

HOUSE FINANCE COMMITTEE
April 29, 2022
1:31 p.m.

1:31:01 PM

CALL TO ORDER

Co-Chair Merrick called the House Finance Committee meeting to order at 1:31 p.m.

MEMBERS PRESENT

Representative Kelly Merrick, Co-Chair
Representative Dan Ortiz, Vice-Chair
Representative Ben Carpenter
Representative Andy Josephson
Representative Bart LeBon
Representative Steve Thompson
Representative Adam Wool

MEMBERS ABSENT

Representative Bryce Edgmon
Representative Neal Foster, Co-Chair
Representative DeLena Johnson
Representative Sara Rasmussen

ALSO PRESENT

Senator Gary Stevens, Sponsor; Tim Lamkin, Staff, Senator Gary Stevens; Senator Peter Micciche, Sponsor.

PRESENT VIA TELECONFERENCE

Glenn Hoskinson, Division of Corporations, Businesses and Professional Licensing, Department of Commerce, Community and Economic Development; Nicole Reynolds, Deputy Director, Tax Division, Department of Revenue; Katie Steffens, State of Alaska Tobacco Prevention and Control Program, Division of Public Health, Department of Health and Social Services.

SUMMARY

CSSB 45 (FIN)
AGE FOR NICOTINE/E-CIG; TAX E-CIG.

CSSB 45 (FIN) was HEARD and HELD in committee for further consideration.

CSSB 9 (FIN)

ALCOHOLIC BEVERAGE CONTROL; ALCOHOL REG

HCS CSSB 9 (FIN) was REPORTED out of committee with two "do pass" recommendations and four "no recommendation" recommendations and with two previously published fiscal impact notes: FN6 (AJS) and FN8 (CED); one previously published indeterminate fiscal note: FN7 (REV); and two previously published zero fiscal notes: FN9 (CED) and FN 10 (DHS/DFC).

Co-Chair Merrick reviewed the agenda for the meeting.

#sb45

CS FOR SENATE BILL NO. 45 (FIN)

"An Act raising the minimum age to purchase, sell, exchange, or possess tobacco, a product containing nicotine, or an electronic smoking product; relating to selling a tobacco product; relating to possession of tobacco, electronic smoking products, or products containing nicotine by a person under 21 years of age; relating to the definition of 'nicotine'; relating to transporting tobacco, a product containing nicotine, or an electronic smoking product; relating to the taxation of electronic smoking products; relating to electronic smoking products; relating to the marketing of electronic smoking products; relating to tobacco products; and providing for an effective date."

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SENATOR GARY STEVENS, SPONSOR, introduced the bill that was intended to prevent children from becoming addicted to nicotine. He indicated that the tobacco industry had recognized the decline in cigarette smoking and responded by developing e-cigarettes and related devices designed primarily to appeal to youth. He observed that since 2015, the legislature had failed to enact any "meaningful public policy" to restrict youth access and the more time without policy the more youth will become addicted to nicotine and the more industry profited. He considered the inaction as

"tacit approval" for harmful products and advised that immediate action was necessary.

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Co-Chair Merrick asked for a review the fiscal notes.

GLENN HOSKINSON, DIVISION OF CORPORATIONS, BUSINESSES AND PROFESSIONAL LICENSING, DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT (via teleconference), reviewed the department's published zero fiscal note (FN3 (CED) allocated to the Division of Corporations, Business and Professional Licensing. She explained that the bill merely changed the legal age to purchase the electronic smoking products. The division issued tobacco endorsements to businesses that sold tobacco and e-cigarette products and the process would not change with passage of the bill. The division did not anticipate fiscal impact from the legislation.

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AT EASE

[1:35:12 PM](#)

RECONVENED

Co-Chair Merrick asked for a review of the changes between the House and Senate versions of the bill.

TIM LAMKIN, STAFF, SENATOR GARY STEVENS, provided the changes between the bill versions. He communicated that the bills were largely the same except for the tax rate that was changed from 75 percent of wholesale to 45 percent. In addition, it was necessary to consider the definition of e-cigarette products for the purposes of taxation.

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Representative Josephson referenced the tax rate reduction from 75 to 45 percent. He asked if Mr. Lamkin was referring to e-cigarette products only and whether the established tobacco tax would remain the same. Mr. Lamkin answered in the affirmative. He indicated that the proposed tax only applied to e-cigarette products.

Representative Wool asked if a product had to contain nicotine to be taxed.

Mr. Lamkin replied in the negative. He explained that less than 1 percent of the market share included products that contained nicotine and the federal government was not regulating or testing the products. He had discovered from studies that many of the products did contain nicotine even though they were labeled otherwise. Vape liquids should be presumed to contain nicotine. Representative Wool asked whether all vaping products would be taxed the same. Mr. Lamkin replied in the affirmative. He reminded the committee that the point was to keep nicotine out of children's hands.

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NICOLE REYNOLDS, DEPUTY DIRECTOR, TAX DIVISION, DEPARTMENT OF REVENUE (via teleconference), reviewed the published fiscal impact note for the Department of Revenue (DOR) allocated to Taxation and Treasury (FN5 (REV)). She communicated that the department did not estimate a revenue impact from the age change because most sellers were already conforming to the federal age change. In terms of taxing e-cigarettes, the division estimated that taxing e-cigarettes at 45 percent of the wholesale price would generate an additional \$2.2 million in revenue in FY 2024, rising with inflation to \$2.4 million in FY 2028. The bill designated the purpose of the revenue collected for education, programs, and advertising relating to the hazards of electronic smoking products. The department had reflected the revenue under the temporary designated general fund code 1252 because SB 45 mandated that the revenue be accounted for separately. She read the following from page 2 of the fiscal note analysis:

These estimates use updated data from the Matanuska-Susitna Borough's tax on ESP sales and updated population data to develop an estimated tax base for Alaska. Since there is no statewide data available for ESP sales, there is a wide range of uncertainty around the revenue estimates. Given the wide range of uncertainty, no additional adjustment was made to FY 2024 revenue estimates to account for potential stockpiling of ESPs in advance of the effective date of the tax.

Ms. Reynolds furthered that the products would be taxed under AS 43.50.300, which was an excise tax for products brought into the state for sale or manufactured in the

state for sale in the state. The fiscal analysis did not include electronic smoking products purchased online by the final consumer.

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Representative Wool asked for clarification regarding products purchased online and taxation. Ms. Reynolds answered the tax would only apply to products brought into the state to sell. She explained that if a person ordered the product online for personal use, the tax would not be levied on the product. Representative Wool asked if it was legal for someone to order a vape product online and not be taxed. He asked if the answerer was yes, whether the tax would further incentivize a person to order the product online. Ms. Reynolds replied that the tax was not levied on products brought into the state for personal use, consequently, if a person were to order electronic smoking products for personal use over the internet, the tax would not apply. She did not believe there were any federal laws preventing a person from ordering tobacco products online and shipping the product to another state. Representative Wool stated his impression was that a person was liable for the state tax if they ordered tobacco products online. Ms. Reynolds answered that cigarettes were taxed differently than other tobacco products and were taxable if brought into the state for sale and for personal use with the exception of the first 400 brought in for personal use.

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Representative Wool stated his understanding of Ms. Reynolds response.

KATIE STEFFENS, STATE OF ALASKA TOBACCO PREVENTION AND CONTROL PROGRAM, DIVISION OF PUBLIC HEALTH, DEPARTMENT OF HEALTH AND SOCIAL SERVICES (via teleconference), reviewed the Department of Health and Social Services published zero fiscal note allocated to Chronic Disease Prevention and Health Promotion (FN 4 (HSS)). She related that the program was responsible for implementing a comprehensive tobacco prevention and control program and limited programmatic impact and no fiscal impact was foreseen.

Co-Chair Merrick indicated that the amendment deadline for SB 45 was on May 4, 2022, at 9:00 A.M.

SB 45 was HEARD and HELD in committee for further consideration.

#sb9

CS FOR SENATE BILL NO. 9(FIN)

"An Act relating to alcoholic beverages; relating to the regulation of manufacturers, wholesalers, and retailers of alcoholic beverages; relating to licenses, endorsements, and permits involving alcoholic beverages; relating to common carrier approval to transport or deliver alcoholic beverages; relating to the Alcoholic Beverage Control Board; relating to offenses involving alcoholic beverages; amending Rule 17(h), Alaska Rules of Minor Offense Procedure; and providing for an effective date."

1:49:07 PM

AT EASE

1:50:20 PM

RECONVENED

Co-Chair Merrick relayed that the committee last heard the bill on April 12, 2022.

SENATOR PETER MICCICHE, SPONSOR, thanked the committee for its work on the bill.

Representative Josephson MOVED to REPORT HCS CSSB 9(FIN) out of committee with individual recommendations and the accompanying fiscal notes.

There being NO OBJECTION, it was so ordered.

HCS CSSB 9(FIN) was REPORTED out of committee with two "do pass" recommendations and four "no recommendation" recommendations and with two previously published fiscal impact notes: FN6 (AJS) and FN8 (CED); one previously published indeterminate fiscal note: FN7 (REV); and two previously published zero fiscal notes: FN9 (CED) and FN 10 (DHS/DFC).

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AT EASE

1:51:50 PM
RECONVENED

Co-Chair Merrick reviewed the schedule for the following week.

ADJOURNMENT

1:52:15 PM

The meeting was adjourned at 1:52 p.m.