

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 2, 2024

3:16 p.m.

MEMBERS PRESENT

Representative Jesse Sumner, Chair
Representative Mike Prax
Representative Dan Saddler
Representative Stanley Wright
Representative Ashley Carrick
Representative Zack Fields

MEMBERS ABSENT

Representative Justin Ruffridge, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 147

"An Act relating to teacher certificates for retired teachers."

- HEARD & HELD

HOUSE BILL NO. 186

"An Act relating to volunteer labor compliance officers; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 192

"An Act relating to curbside pickup of alcoholic beverages sold by a package store; relating to consumer delivery licenses; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 251

"An Act exempting certain foods and drinks prepared in a person's uninspected home kitchen from state labeling, licensing, packaging, permitting, and inspection requirements; and permitting a person to acquire meat from a producer by way of an ownership share in an animal if certain conditions are met."

- BILL HEARING RESCHEDULED TO 02/05/24

HOUSE BILL NO. 237

"An Act relating to temporary permits for nurses with lapsed licenses."

- BILL HEARING RESCHEDULED TO 02/05/24

SENATE BILL NO. 37

"An Act establishing the crime of airbag fraud."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 147

SHORT TITLE: RETIRED TEACHER CERTIFICATE

SPONSOR(s): REPRESENTATIVE(s) DIBERT

03/29/23	(H)	READ THE FIRST TIME - REFERRALS
03/29/23	(H)	L&C, EDC
04/10/23	(H)	L&C AT 3:15 PM BARNES 124
04/10/23	(H)	<Bill Hearing Canceled>
01/26/24	(H)	L&C AT 3:15 PM BARNES 124
01/26/24	(H)	-- MEETING CANCELED --
02/02/24	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 186

SHORT TITLE: VOLUNTEER LABOR COMPLIANCE OFFICER PRGM

SPONSOR(s): LABOR & COMMERCE

05/03/23	(H)	READ THE FIRST TIME - REFERRALS
05/03/23	(H)	L&C, FIN
11/16/23	(H)	L&C AT 2:00 PM ANCH LIO DENALI Rm
11/16/23	(H)	<Bill Hearing Canceled>
12/05/23	(H)	L&C AT 2:00 PM ANCH LIO DENALI Rm
12/05/23	(H)	Heard & Held
12/05/23	(H)	MINUTE(L&C)
01/19/24	(H)	L&C AT 3:15 PM BARNES 124
01/19/24	(H)	Heard & Held
01/19/24	(H)	MINUTE(L&C)
02/02/24	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 192

SHORT TITLE: DELIVERY/PICK UP OF ALCOHOL; LICENSING

SPONSOR(s): SUMNER

05/03/23	(H)	READ THE FIRST TIME - REFERRALS
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05/03/23 (H) L&C, FIN
01/22/24 (H) L&C AT 3:15 PM BARNES 124
01/22/24 (H) Heard & Held
01/22/24 (H) MINUTE (L&C)
02/02/24 (H) L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE MAXINE DIBERT

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 147 as prime sponsor.

TAMMY SMITH, Staff
Representative Maxine Dibert
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 147.

REBECCA ZAVERL, Principal
Denali Elementary School
Fairbanks School District
Fairbanks, Alaska

POSITION STATEMENT: Provided invited testimony during the hearing on HB 147.

SEAN PRINCE, President
Anchorage Principals Association
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony during the hearing on HB 147.

KELLY MANNING, Director
Innovation and Education Excellence
Department of Education and Early Development
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 147.

ALICIA MALTBY, President
Alaska Building Contractors Alaska
Juneau, Alaska

POSITION STATEMENT: Gave invited testimony in support of HB 186.

TANYA KEITH, Director

Division of Labor Standards and Safety
Department of Labor and Workforce Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 186.

BRONSON FRYE, President
Alaska Local 1959
Anchorage, Alaska

POSITION STATEMENT: Gave invited testimony in support of HB 186.

MATT CAPECE, Representative of the General President
United Brotherhood, Carpenters and Joiners of America
Washington

POSITION STATEMENT: Answered questions during the hearing on HB 186.

SARENA HACKENMILLER, Staff
Representative Jesse Sumner
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Sumner, prime sponsor, read the summary of changes in Version B of HB 192.

DEBB HERRON, Director
Public Affairs and Governmental Relations
Walmart
Portland, Oregon

POSITION STATEMENT: Gave invited testimony in support of HB 192.

ACTION NARRATIVE

[3:16:44 PM](#)

CHAIR JESSE SUMNER called the House Labor and Commerce Standing Committee meeting to order at 2:46 p.m. Representatives Prax, Saddler, Wright, Carrick, Fields, and Sumner were present at the call to order.

HB 147-RETIRED TEACHER CERTIFICATE

[3:17:19 PM](#)

CHAIR SUMNER announced that the first order of business would be HOUSE BILL NO. 147, "An Act relating to teacher certificates for retired teachers."

3:18:00 PM

REPRESENTATIVE MAXINE DIBERT, Alaska State Legislature, as prime sponsor, read the sponsor statement [included in committee packet], which read as follows [original punctuation provided]:

The first thing this bill seeks to do is honor teachers in the State of Alaska for their years of dedication to our youth by providing them with a lifetime teachers certificate at no cost. Under current law, retired teachers pay a one-time \$250 fee for this type of certificate. The current fee brings very little revenue to the state. Retired teachers normally only seek a life-time certificate if they plan on re-entering the classroom as substitutes.

The other thing this bill does is extend the number of consecutive days a retired teacher holding this type of certificate can long-term substitute from 120 days to 165 days. This allows a person holding this type of certificate to fill in as a long-term substitute for more than an entire semester in cases where absences continue for extended periods.

Alaska educators occasionally must take a leave of absence from their classroom for different reasons including medical procedures, caring for a child or elder, the birth of a child, as well as other emergencies. On rare occasions, teachers abruptly exit a position mid-year for personal reasons, leaving the school in a bind. When regular teachers must leave positions during the academic year, this bill will take some pressure off schools in finding skilled, qualified substitutes and allow them to fill longer vacancies than previously allowed. This bill also encourages retired teachers to share their expertise with students and young teachers and to remain living in Alaska as active members of communities and contributors to the economy.

3:22:53 PM

TAMMY SMITH, Staff, Representative Maxine Dibert, on behalf of the prime sponsor, Representative Dibert, read the sectional analysis [included in committee packet], which read as follows [original punctuation provided]:

*Section 1: Amends AS 14.20.020(g)

That the department shall issue, at no cost to the person, a teacher certificate to a person who possessed a valid Alaska teacher certificate upon retirement. A teacher certificate issued under this subsection is valid for the life of the retired teacher and qualifies the holder as a substitute teacher in the state.

A teacher certified under this subsection may teach as a long-term substitute teacher for not more than 165 consecutive days of a school term. In this subsection, "long-term substitute teacher" means a teacher who is employed in the state to substitute teach for more than 20 consecutive days of a school term.

*Section 2: Amends the uncodified law of the State of Alaska by adding a new section to read:

Applicability. This act applies to a contract or collective bargaining agreement that becomes legally binding on or after the effective date of this Act.

[3:23:47 PM](#)

REPRESENTATIVE FIELDS inquired as to why the number of consecutive days would be limited.

MS. SMITH explained that, in 2016, a substitute teacher could substitute for up to 120 days; this was changed to allow for more time for a long-term certified teacher to be in the classroom consecutively. She said that change had to do with the amount of allowable pay there is for a position that has a substitute teacher in it. She said the change also incentivized districts to hire a new active certified teacher first rather than a retired substitute teacher.

[3:25:59 PM](#)

REPRESENTATIVE WRIGHT asked if Representative Dibert is introducing HB 147 because retired teachers are on a fixed income.

REPRESENTATIVE DIBERT answered that schools need substitute teachers, and the proposed retired lifetime certificate would be an incentive to get retired teachers into schools.

[3:27:17 PM](#)

MS. SMITH added that retired teachers are on a fixed income. She said that, while she herself is retired, she holds lifetime certification. She explained that people with such certification are people who chose not to renew their active certification; the bill is an opportunity for them to reignite into the profession.

[3:27:57 PM](#)

REPRESENTATIVE SADDLER offered his understanding that 180 instructional days is a teacher's full-year workload. He asked why a retired teacher would want to come back to just be a full-time long-term substitute.

MS. SMITH illustrated an example using herself: if she let her teaching certification lapse, it would lapse in two years. She said part of renewing certification requires attaining credits, and getting such credits can cost a lot of money. She explained that, in order for her to maintain her certification, she has to have six continuing credits. She shared that school districts allow the teacher to take a credit through a district program, which would make getting credits less expensive. She said she is unsure if she would want to go back to being an active certified teacher because it "is a young people's game"; districts should be encouraged to always be looking for early career educators.

REPRESENTATIVE SADDLER asked for the dollar amount for re-certification. He also inquired about the general shortage of substitute teachers.

MS. SMITH answered that each credit may cost \$100 to \$400 per credit. The certificate itself costs \$240.

[3:32:55 PM](#)

REPRESENTATIVE CARRICK shared that she was a substitute teacher who was mentored by a retired teacher. She asked, since the legislation proposes to remove the one-time fee, if it is a barrier for some.

MS. SMITH responded that she did not hear whether it was a barrier; however, there is a difference between a person who retires and maintains certification versus another who retires and wants to teach five years later as the likelihood of them wanting to go through the certification process decreases.

[3:34:17 PM](#)

REPRESENTATIVE PRAX offered his understanding that a teacher must undergo recertification every few years.

MS. SMITH answered that's correct.

REPRESENTATIVE PRAX asked if a retired teacher would need to get the proposed retired teacher license within two years of their certification.

MS. SMITH offered that, if a teacher is on active certification, they cannot let the license lapse or else there is additional coursework they must do.

REPRESENTATIVE PRAX said he could imagine a situation where a teacher is planning to retire, their certification lapses, and they come back seeking a retired teacher certificate. He asked whether the teacher would be able to get the certificate in that scenario.

MS. SMITH answered that she believes they could but needs confirmation from the Department of Education and Early Development (DEED).

[3:36:29 PM](#)

REBECCA ZAVERL, Principal, Denali Elementary School, Fairbanks School District, shared that she has been teaching at Denali Elementary School since 2001 and was mentored by teachers working at the school. She said she became principal three years ago, and that her greatest worry is checking to see who called out sick; today she had 10 staff out and had only two substitutes. She recalled that no one applied for music teacher at the beginning of the school year, so a retired teacher returned to fill the spot as such teachers make up her substitute pool. She pointed out that returning retired teachers mentor new teachers. She said the bill will offer appreciation and respect to long-time educators by covering the cost of their teaching certificate for life.

[3:40:09 PM](#)

SEAN PRINCE, President, Anchorage Principals Association, said he is in support of HB 147 and dealing with the substitute crisis across the state. He listed several reasons why a high school teacher may need a substitute, both in planned and unplanned absences. He explained that it is easy to point to an experienced teacher to be a substitute, and while the current substitutes in the district do a fair job, they are not professional educators. He stated that HB 147 could meet the substitute need by removing the cost for retired teachers to obtain a lifetime certificate; extending the substitute period from 120 days to 165 days; and encouraging retired and soon to be retired teachers to remain in the state. He recalled when he had a teacher who taught math in the special education section of the school and said it is important that such teachers are retained since they are rare to find. He said that, when the teacher retired after 28 years, he could not find a replacement; however, when he called her to fill in the vacancy, she agreed to come back for three years.

[3:45:01 PM](#)

REPRESENTATIVE PRAX asked whether the bill just covers teachers who retired and want to retain the certificate, or if it would also cover teachers who retired and let their certification lapse.

[3:45:31 PM](#)

KELLY MANNING, Director, Innovation and Education Excellence, Department of Education and Early Development (DEED), answered that the lifetime certification would apply to any retired teacher. She said they do not need to have a current certification to be eligible.

REPRESENTATIVE PRAX sought confirmation that any person who has held a teaching certificate and is in retirement can apply for the proposed lifetime certificate.

MS. MANNING answered that's correct.

[3:46:50 PM](#)

REPRESENTATIVE SADDLER inquired as to whether the bill would facilitate retired teachers returning just as a mentor to teachers.

MS. SMITH responded, "That's not really the purpose of this." She said that, when there is a retired teacher on staff, it just naturally evolves into mentoring new teachers.

REPRESENTATIVE SADDLER asked if the retired teacher has to be teaching or could be hired as a master teacher to mentor others.

[3:48:43 PM](#)

REPRESENTATIVE DIBERT said the retired teacher with a lifetime certificate would have to apply to be a substitute in the district.

REPRESENTATIVE SADDLER reiterated the question.

MS. SMITH answered no, as being a mentor would be a different position.

[3:49:27 PM](#)

CHAIR SUMNER announced HB 147 was held over.

HB 186-VOLUNTEER LABOR COMPLIANCE OFFICER PRGM

[3:49:37 PM](#)

CHAIR SUMNER announced that the next order of business would be HOUSE BILL NO. 186, "An Act relating to volunteer labor compliance officers; and providing for an effective date."

[3:49:56 PM](#)

ALICIA MALTBY, President, Alaska Building Contractors Alaska, read her written testimony in opposition to HB 186 [included in committee packet], which read as follows [original punctuation provided]:

Associated Builders and Contractors of Alaska ("ABC") is the voice of the Alaska construction industry, advocating the ideals of free enterprise, developing training for the workforce, and providing contractors the resources required to compete in the ever-changing environment.

ABC opposes House Bill 186 "An Act relating to volunteer labor compliance officers".

ABC supports enforcement of Alaska's labor laws but while we may have a common goal to ensure compliance the solution contained in House Bill 186 is the wrong approach and would set a dangerous precedent for enforcement of Alaska laws and regulations. Enforcement of Alaska labor laws and regulations often requires site visits to private property, private businesses and place the investigator on construction sites. These types of activities should be the responsibility of trained public employees, who should not have any conflicts of interest, while operating under Alaska ethics laws where the State can be held responsible for their actions.

While HB 186 deals with construction the underlying premise would support expansion to other agencies where complaints arise of inadequate enforcement allowing citizen investigators in a myriad of sectors such as the Alaska Public Offices Commission or food safety inspectors of restaurants. Simply put, the bill seems to indict the Department of Labor and the current Administration as failing to do their job in enforcing state labor laws and regulations. The solution proposed would have privately paid "investigators" stepping in to do the Department's work. We believe a better path would be to better identify and define problems, if any, and work with the Department to ensure they have the tools necessary to do their job.

With regard to this bill, when looking at the information from the Department of Labor there does not seem to be a significant issue that justifies such a radical approach to change current enforcement programs, but ABC is willing to engage and collaborate with stakeholders to further understand any potential issues.

With regard to specific concerns, we offer the following preliminary thoughts:

- While the bill prohibits investigators from having a conflict of interest there is no definition of what a conflict is. This should be defined in great detail and not left for regulations. Would a union employee

investigating a nonunion contractor have an inherent conflict of interest? Alaskans should know before passing the bill what is intended within the context of "conflict of interest." Additionally, there should be some public disclosure of the "investigator's" personal interests such as who they have worked for, if they own a business in construction, and who is paying them to be an "investigator."

- The bill inadequately addresses liability. Who will be liable for any accidents or injuries that are a result of the "investigators" on site activities? Will it be the investigator personally or the entity paying the "investigator"? How much liability coverage will they be required to cover?
- The bill is insufficient in how it deals with conflicts of interest. By simply removing the person from having authority to continue investigating, this leaves little to no deterrence for malfeasance or holds anyone accountable for any actions of the "volunteers." At a minimum, investigating a private business with a conflict of interest should be a crime. Who will manage the complaints over conflicts of interest? If the underlying concern is the Department does not have the resources to investigate labor violations, how would they have the resources to investigate conflicts of interest or other complaints? What type of due process procedure is envisioned to deal with complaints? One suggestion would be to add "volunteer" citizen hearing officers/investigators to the bill to investigate the investigators?
- We do not understand the prohibition on an employee of the State taking leave and "volunteering" to be an investigator. What is the rationale for excluding state employees?

Enforcement of State of Alaska laws and regulations is the sole responsibility of the State. When the full power and authority of the State of Alaska is behind individuals performing said enforcement, those individuals should have the same consequences for improprieties than any other State of Alaska employee has. In short ABC of Alaska feels strongly that any labor compliance should be performed by the State of

Alaska, and volunteers would not be appropriate or suitable to perform these duties.

ABC is willing to collaborate with you and the legislature to better define any problems with enforcement and if any exist ensure the Department of Labor has the tools to solve those problems but cannot support the radical idea to delegate such an important responsibility to "volunteers."

We do appreciate your interest in seeing Alaska's labor laws and regulations enforced and Alaska businesses and workers being protected. We look forward to further engagement and collaborating with you on this matter.

[3:56:15 PM](#)

TANYA KEITH, Director, Division of Labor Standards and Safety, Department of Labor and Workforce Development (DLWD), said she is present to take questions.

[3:56:35 PM](#)

REPRESENTATIVE FIELDS offered his understanding that there has been declining staffing in Departments of Labor across the country. He asked Ms. Keith how she would characterize DLWD'S approach to standards and safety.

MS. KEITH answered that the department uses a strategic approach, with 10 to 12 investigators across the state; it covers 21,000 businesses in the state, as well as the 2,400 public projects that have been started since 2021.

REPRESENTATIVE FIELDS asked how the department looks at staffing, whether it's per man hour, per a certain number of dollars in the industry. He asked whether industries with higher union density have more complaints.

MS. KEITH responded that investigations are prioritized through complaints received; the department's authority of enforcement is tied to an assignment received from an employee. She said that union representation doesn't necessarily correlate into more complaints. She explained that job sites with unions typically have a person who advocates for the employees, and in some cases, takes care of issues before they come to the office.

She said the division receive many complaints from low-wage workers because they have no other avenue of recourse.

4:00:09 PM

REPRESENTATIVE PRAX asked whether the state has people that just monitor complaints.

MS. KEITH answered yes, most agencies that have contracts do have project managers who oversee projects.

REPRESENTATIVE PRAX inquired about grant agencies and whether, if they are operating under a grant or contract with the state, the state would audit those companies as it relates to wage and hour and job safety.

MS. KEITH explained that only public construction is audited regularly. She shared that some industries, like assisted living, are subject to licensing requirements; many reports of violations in that industry come from other state agencies that monitor the industry.

4:02:29 PM

REPRESENTATIVE SADDLER asked where else the department looks for volunteers to enforce labor standards and safety and whether there are regulations allowing people to report an unsafe or illegal labor practice they witnessed.

MS. KEITH stated that the department does not have volunteers who enforce labor laws. She said it takes tips or calls from anybody on a job site that sees an issue. In response to a follow-up question regarding what is typically reported in tips and how many, she said the department gets calls everyday. She explained that if someone is having issues with their employer, it usually isn't limited to just their pay. If the complaint deals with another department, the complaint is referred to the other department. She listed the sorts of tips they get, including no final paycheck, unsafe work practices, and harassment.

REPRESENTATIVE SADDLER pointed out that testifiers said they don't see a need for this legislation. He asked if the proposed volunteer program would be helpful in improving compliance with labor practice laws.

MS. KEITH stated that she has no opinion.

4:05:11 PM

CHAIR SUMNER asked how the department would process a labor law violation report from a third-party non-employee.

MS. KEITH explained that, based on how egregious the violation was, there are several steps the department could take. She said those steps include calling the employer, sending a letter notifying them about the issue, informing them on what the laws are, and going to site visits, which could lead to an investigation.

CHAIR SUMNER asked whether it is department policy to only respond to employee complaints.

MS. KEITH answered no, it is not policy to only respond to employee complaints. She commented that third party information is taken and considered, but investigations cannot begin from a third-party report because enforcement comes from investigating complaints. To take court action, there needs to be an assignment from the employee.

4:07:31 PM

REPRESENTATIVE FIELDS asked about wage theft, as well as which groups of employees are less aware of their labor rights.

MS. KEITH answered that Alaska law does not define wage theft, but many employees don't receive a final paycheck, for example. She explained issues that DLWD finds, like an employer not aware of overtime laws, or another that didn't pay based on the wage rate they promised to the employee. She said many reports are from immigrants who are not aware of their rights.

4:10:37 PM

REPRESENTATIVE PRAX offered his understanding that employers, union shops, and merit shops, as examples, would be quick in addressing a contractual problem. He said the previous testimony made it sound like the state was getting involved in the contractual relationship between employer and employee. He asked whether the state should be involved in contractual violations, as opposed to state labor law.

MS. KEITH responded that the department does not get involved in labor issues or contracts. She explained that, when a public

construction site is investigated, DLWD verifies that all employees and contractors are getting paid the prevailing wage for the classification of work they are doing; on a private construction site, the department enforces wage and hour laws, which requires that employees are paid minimum wage and overtime for all of the hours they are working.

[4:13:04 PM](#)

CHAIR SUMNER asked how labor laws are enforced with out-of-state employees.

MS. KEITH answered that it is the same with Alaska employers. Upon notification of an awarded contract, the department ensures receipt of notice of work from the contractors, determines whether they have current licensure, and provides education the employee might need.

CHAIR SUMNER sought clarification as to whether it is the position of DLWD that Alaska labor laws do not apply to out-of-state contractors.

MS. KEITH answered no, all employees working in the state of Alaska are subject to labor laws. She stated that the location of the employer makes no difference, as the department routinely does investigations into businesses that are out of state.

[4:14:30 PM](#)

REPRESENTATIVE SADDLER questioned the need to deputize labor compliance officers.

MS. KEITH commented that the department is not receiving a significant number of complaints about public projects. She explained that staff within the wage and hour division audits certified payroll and catches issues. In response to a follow-up question regarding private construction projects, she said the department is not receiving a significant number of complaints in that area either. She pointed out that in 2023, one public construction complaint and 11 private construction complaints were filed.

[4:16:36 PM](#)

The committee took an at-ease from 4:16 p.m. to 4:22 p.m.

[4:21:52 PM](#)

BRONSON FRYE, President, Alaska Local 1959, stated that he is testifying in support of HB 186. He explained the bidding process as the summation of four categories: the materials, the overhead, the profit, and the labor. Material costs are the same for everyone, as is overhead and profit, but labor is variable. He said the construction industry is faced with an issue where whoever can reduce labor costs, whether through honest or dishonest means, is often rewarded by getting the job. He stressed that wage theft is real in Alaska, and that the easiest employee to fall victim to wage theft are those who are already victims of human trafficking. Another example is when an employer requires that each employee get a business license and self-perform the work as an independent contractor; this makes it so the employer is no longer required to provide worker's compensation, which in the construction industry is typically about 30 percent of labor costs. He pointed out a combination of employee misclassification, wage theft, no overtime, and victimizing those being human trafficked; contractors are incentivized to adopt dishonest business models and are awarded for doing such. He commented that he is mystified as to why the Associated Builders and Contractors are not in full support of the bill, since their mission is to help qualified and responsible low bidders with an emphasis on honesty and fairness. He stated that the reality is that the responsible, honest contractors are the ones being cheated out of the opportunities to do the jobs. He offered that a contractor would be happy to support something that prevented dishonest employers from gaming the system. He detailed that an employee who is being trafficked is disincentivized from self-reporting to the department due to the fear of retaliation. He said honest contractors are being cheated, and dishonest contractors are incentivized to adopt unscrupulous business models. He stated that it is reasonable that the state takes the position that there would be utility in a voluntary compliance officer program, like the one proposed in the bill. He stressed that there will be \$4 billion to \$6 billion of construction work coming to Alaska over the next decade, and that the state should not be a place that rewards cheating, dishonest, and unscrupulous contractors that victimize employees.

[4:28:23 PM](#)

REPRESENTATIVE PRAX noted that there are contractors that work on small and big projects. He asked whether the practices Mr.

Frye referred to are prevalent in small, medium, or large-scale projects.

MR. FRYE answered, "All of them." He shared that he has recently been on small, medium, and large projects and has seen it.

REPRESENTATIVE PRAX offered his understanding that, in using the term "prevailing wage," a condition of the contract would be that the employer would pay whatever the prevailing wage might be. He asked if Mr. Frye is talking about projects that are under written contract that pay a prevailing wage until it's found out that they are not.

MR. FRYE explained that when an employee becomes a self-contractor, the main business does not have them listed for a prevailing wage. He detailed a hypothetical: while there may be five drywall painters on a site, certified payroll only shows one person. He stressed that dishonest employers are gaming the system.

REPRESENTATIVE PRAX asked Mr. Frye if he had personally witnessed what he is alleging.

MR. FRYE answered, "Yes, all over the state."

REPRESENTATIVE PRAX suggested that this issue would be something that the union handles. He asked if Mr. Frye works with the union.

MR. FRYE confirmed that he works for the union, and that the projects he referred to were open bid with both union and non-union workers on them.

REPRESENTATIVE PRAX offered that if a person is working on a union contract, it would seem to be the job of the union to represent their members. He asked why the union is not representing their members.

MR. FRYE answered that he is a union organizer, and that his job is to talk to workers. He stressed that he is testifying on authority and with certainty regarding what is going on.

[4:33:56 PM](#)

REPRESENTATIVE CARRICK said the bill as written would allow a current construction worker to be a voluntary compliance

officer. She asked about people that work for a company's competitor on a project.

MR. FRYE responded that owners of construction companies are mindful of their budget, and so he cannot imagine a company investing in going around and abusing the proposed compliance officer. He stated that he does not believe that would be an issue.

REPRESENTATIVE CARRICK pointed out that the bill also requires construction experience in order to be a volunteer compliance officer. She asked if there is a pool of former construction people, not currently employed, who can volunteer for the position.

MR. FRYE answered that there are many industry groups that want to see honest employers do good. He said it is fair to expect a pool of people that'll step up.

[4:36:16 PM](#)

REPRESENTATIVE PRAX said Mr. Frye must be getting his info from non-union job sites. He asked how he gets on these job sites.

MR. FRYE stated that he's not a union contractor, he's a union organizer. He said it is easy to find construction workers and talk to them about such information.

[4:37:19 PM](#)

REPRESENTATIVE SADDLER pointed out that DLWD says there is not a problem, and that total wage claims have reduced from 250 to 50 since 2018.

MR. FRYE answered that there is a lot of ground to cover with only just 12 investigators. He highlighted that most wage theft victims are disincentivized from self-reporting for fear of retaliation.

REPRESENTATIVE SADDLER asked about employees being independent contractors, and asked if this bill would solve that.

MR. FRYE responded yes, and that it would be done by asking if each individual employee is covered by a worker's compensation policy. He said most of the time, workers are not covered; once an employer classifies the worker as an independent contractor,

the employer is no longer responsible for worker's compensation premiums.

[4:39:51 PM](#)

MATT CAPECE, Representative of the General President, United Brotherhood, Carpenters and Joiners of America, read his written testimony on HB 186 [included in committee packet], which read as follows [original punctuation provided]:

Dear Representative Sumner,

I am writing on behalf of the United Brotherhood of Carpenters and Joiners of America ("UBC") to give our support for House Bill 186, An Act Relating to Volunteer Labor Compliance Officers.

The focus of my work for the UBC is on the growing problem of illegal employment practices in the construction industry. My work on the topic began in 1989 when I was associate general counsel for my local carpenters' union in Connecticut. Since then I was hired by the UBC, which has put me in the position of witnessing the spread of illicit and immoral employment practices throughout the country that harm workers, responsible construction businesses and taxpayers.

The illicit and immoral employment practices in our industry sadly do not stop at tax fraud, wage theft and workers' compensation premium fraud. They also include labor trafficking, child labor, mail fraud, wire fraud, immigration-law violations, money laundering and racketeering.

In one outrageous case in Minnesota, a subcontract labor provider, Ricardo Batres, was sent to jail for labor trafficking and employer workers' compensation premium fraud. He kept his construction workers packed in living quarters without hot running water. Whenever his workers complained about their housing and unsafe working conditions, he threatened to call immigration authorities to keep them quiet. Those unsafe working conditions resulted in one of his workers suffering a broken back. Batres' response was to insist that he be brought to a massage therapist.

Conditions in our industry have become so alarming that the U.S. Department of the Treasury's Financial Crimes Enforcement Network ("FinCEN") has issued a notice to banks, money service businesses and other financial institutions requiring them to report the suspicious transactions of their construction account holders. In its notice, FinCEN wrote:

The Financial Crimes Enforcement Network (FinCEN) is issuing this Notice to call financial institutions' attention to what law enforcement has identified as a concerning increase in state and federal payroll tax evasion and workers' compensation insurance fraud in the U.S. residential and commercial real estate construction industries.

Every year across the United States, state and federal tax authorities lose hundreds of millions of dollars to these schemes, which are perpetrated by illicit actors primarily through banks and check cashers. As described in this Notice, many payroll tax evasion and workers' compensation fraud schemes involve networks of individuals and the use of shell companies and fraudulent documents. These schemes further affect the local and national construction job markets, and put legitimate construction contractors and their employees at a competitive disadvantage.

By now you may have been made aware of the data on illegal practices in our industry nationally and in Alaska, so please bear with me as I summarize here. Nationally, up to 2.1 million construction workers, or 19 percent, are either misclassified as independent contractors or paid off the books.⁵ Those are conservative estimates. State and federal tax losses amount to \$10 billion. Construction workers suffer \$1.9 billion of wage theft, and workers' compensation insurers lose \$5 billion a year to employer premium fraud. To add insult to injury, working families suffer a \$5.1 billion tax increase, because crooked contractors foist the employment taxes they should be paying onto the backs of their workers. Nationally, this race to the bottom has led to 39 percent of construction worker families relying on some form of public assistance to make ends meet, costing state and federal taxpayers \$28 billion a year.⁶ It is no wonder that under these conditions the industry is having

difficulty attracting and retaining a skilled workforce.

In Alaska, up to 19.2 percent of the construction workforce is either misclassified as independent contractors or paid off the books.⁷ The workers suffer \$4.7 million in wage theft a year and the state is losing \$5.8 million a year in unpaid unemployment insurance contributions, and the offloading of employment-tax obligations result in Alaska construction workers having their taxes increased by \$12.9 million. Unpaid workers compensation premiums are \$12.4 million. You can bet that workers' compensation insurers are passing along those fraud losses to honest construction employers who then see their premiums go up, making them less competitive against the cheaters.

How did things get this bad? There are a combination of factors, chief among them include a marketplace favoring the lower bids of the crooks, workers' compensation insurer practices that enable fraud, failed immigration laws, the industry's adoption of a labor provider (whom we call "labor brokers") fraud model that protects upper-tier contractors from liability, the absence of accountability for upper-tier contractors that use law-breaking labor brokers, the underfunding of law enforcement, the industry giving up on self policing, and the lack of knowledge and understanding of the construction industry and the severity of the problem.

This now brings us to our support of House Bill 186. The bill wisely improves the state's enforcement capabilities at little cost. The fiscal notes on the legislation put the yearly cost at \$464.6 thousand a year. This is far less, for instance, than the \$5.8 lost to the state unemployment trust fund and the \$4.7 million in wage theft. The volunteer compliance officers will be trained by the Department of Labor and Workforce Development ("DLWD"). The legislation includes safeguards that ensure the impartiality and professional conduct of the volunteers. The volunteers will not be issuing citations-they will serve as a vanguard, reporting suspected violations of state labor law to DLWD who can conduct further investigations that can lead to citations. The

volunteers amount to a much-needed force multiplier for DLWD, thus improving law enforcement capabilities for the construction industry, especially when DLWD uses volunteers with industry expertise. This checks many of the boxes needed to improve compliance with state employment, tax, and anti-labor trafficking laws.

The UBC and its [sic] affiliates simply seek a level playing field for all law-abiding construction employers and a ticket to the middle class for the men and women who do the hard work. HB 186 assists in getting there. For these reasons we support the legislation and urge its adoption.

[4:48:29 PM](#)

REPRESENTATIVE PRAX noted that there may be competing companies that seek to suppress competition. He asked how conflict of interest is defined in other states.

MR. CAPECE answered that, in the construction industry, the marketplace is favoring employers who cheat; there's a suppression of business for law-abiding employers. He said that law-abiding employers need protection from cheating competitors. He said he cannot answer the conflict-of-interest question, but pointed out that the bill provides for people to be trained by DLWD on how to act professionally, and how to not benefit any one person or entity. He said the volunteers would be "eyes and ears," as they are not issuing citations; whatever they see, they will report to DLWD, who will handle the investigation and issue citations.

[4:51:10 PM](#)

REPRESENTATIVE FIELDS said there are many worker advocacy groups. He asked where immigrant advocacy groups are.

MR. CAPECE commented that in every state there are going to be low-wage employee advocacy/protection groups. He shared an anecdote about such a group in Minnesota.

[4:52:50 PM](#)

CHAIR SUMNER announced that HB 186 was held over.

HB 192-DELIVERY/PICK UP OF ALCOHOL; LICENSING

[4:52:57 PM](#)

CHAIR SUMNER announced that the final order of business would be HOUSE BILL NO. 192 "An Act relating to curbside pickup of alcoholic beverages sold by a package store; relating to consumer delivery licenses; and providing for an effective date."

[4:53:07 PM](#)

REPRESENTATIVE SADDLER move to adopt the proposed committee substitute (CS) for HB 192, Version 33-LS0753\B, C. Radford, 2/1/24, as a working document.

CHAIR SUMNER objected for the purpose of discussion.

[4:53:33 PM](#)

SARENA HACKENMILLER, Staff, Representative Jesse Sumner, Alaska State Legislature, on behalf of prime sponsor, Representative Sumner, read the summary of changes [included in committee packet], which read as follows [original punctuation provided]:

Version A to Version B

Version B adds transitional regulations and updates an effective date.

Sections 1-5: No change.

Section 6: Reference to SLA 2022 removed.

Section 7-8: No change.

Section 9: Replaces original section 9 with transitional language allowing the Alcoholic Beverage Control Board to adopt regulations to implement the changes made by this Act, which cannot become effective prior to the effective date of this Act.

Section 10: Prior section 9. This updates the effective date to January 1, 2025.

[4:54:45 PM](#)

CHAIR SUMNER removed his objection. Ther being no further objection, Version B was before the committee as a working document.

[4:55:04 PM](#)

DEBB HERRON, Director, Public Affairs and Governmental Relations, Walmart, paraphrased her written testimony on HB 192 [included in committee packet], which read as follows [original punctuation provided]:

Chair Sumner and members of the Alaska House Labor & Commerce Committee:

I want to thank Chair Sumner and the Committee for the opportunity to share Walmart's support of modernizing our regulated beverages laws to allow for and integration of alcoholic beverages into curbside pickup and delivery services for Alaska customers.

As a retailer with 9 stores in the state, we are greatly attuned to the customer's needs. There is strong customer demand for the convenience offered by curbside pickup and retail home delivery, which is why we greatly appreciate this Legislature's willingness to remove barriers to a business' ability to best serve its customers.

House Bill 192 would allow package stores to include alcoholic beverages in customer pick-up orders and offer these items in home delivery to customers. This is a highly convenient service for customers that plan their shopping orders ahead of time and schedule use of both services.

Across all different age demographics, curbside pick-up and delivery is wildly popular across the United States. More than two-thirds of the country allows grocery stores to offer integrated curbside pickup and delivery orders to customers.

This bill facilitates the ability of package stores to serve their customers by allowing alcoholic beverages to be included in curbside pick-up and delivery orders. Providing the capability for consumers to order ahead of time increases convenience and

accessibility while enhancing a store's ability to offer the services that customers want and need. The convenience of curbside pick-up and delivery also greatly benefits busy families and individuals who may experience challenges with instore shopping.

Walmart has a proud history of being a responsible retailer, especially when it comes to alcohol sales.

Adding Alaska to the list of states that allow curbside pickup and delivery of alcohol would support local, brick and mortar businesses, local jobs within stores, and delivery-related work. It enhances overall customer convenience.

Supporting HB 192 will offer added convenience, improve customer satisfaction, and provide customers with greater access to local and world class products. Consumers resume the ease and straightforward ability to complete their full order at one time -- saving time, money, and hassle.

Thank you for your time and consideration of these public comments. If committee members have any questions in regard to Walmart operations on this regulated product and our Online Pickup and Delivery services, please do not hesitate to reach out for additional information or assistance. Thank you for your consideration.

[4:58:33 PM](#)

REPRESENTATIVE SADDLER asked how much of Walmart's business in Alaska is curbside pick-up.

MS. HERRON responded that she doesn't have numbers off-hand. She said Walmart has nine stores in the state, with each of them currently offering curbside; only four have liquor licenses. She explained that curbside is popular and detailed the curbside delivery process.

[5:02:05 PM](#)

REPRESENTATIVE PRAX asked whether the committee would hear from the Board of Alcohol on enforcement, or the Department of Public Safety.

CHAIR SUMNER answered that they would be invited.

5:02:48 PM

CHAIR SUMNER announced that HB 192 was held over.

5:03:26 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:03 p.m.