

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 2, 2025

1:01 p.m.

MEMBERS PRESENT

Representative Andrew Gray, Chair
Representative Ted Eischeid
Representative Genevieve Mina
Representative Sarah Vance
Representative Mia Costello
Representative Jubilee Underwood

MEMBERS ABSENT

Representative Chuck Kopp, Vice Chair

COMMITTEE CALENDAR

HOUSE BILL NO. 97

"An Act relating to theft; relating to organized retail theft; relating to property crimes; relating to aggravating factors at sentencing; establishing a statewide marketplace facilitator sales tax; and establishing the organized retail theft fund in the general fund."

- HEARD & HELD

PRESENTATION(S): ALASKA COURT SYSTEM - LIMITS ON PRETRIAL DELAYS

- HEARD

PREVIOUS COMMITTEE ACTION

BILL: HB 97

SHORT TITLE: ORG. RETAIL THEFT/FUND;MKTPLACE SALES TAX

SPONSOR(S): REPRESENTATIVE(S) FIELDS

02/12/25	(H)	READ THE FIRST TIME - REFERRALS
02/12/25	(H)	JUD, FIN
02/26/25	(H)	JUD AT 1:00 PM GRUENBERG 120
02/26/25	(H)	Heard & Held
02/26/25	(H)	MINUTE (JUD)
03/05/25	(H)	JUD AT 1:00 PM GRUENBERG 120
03/05/25	(H)	Heard & Held

03/05/25 (H) MINUTE (JUD)
03/17/25 (H) JUD AT 1:00 PM GRUENBERG 120
03/17/25 (H) <Bill Hearing Canceled>
03/26/25 (H) JUD AT 1:00 PM GRUENBERG 120
03/26/25 (H) Heard & Held
03/26/25 (H) MINUTE (JUD)
04/02/25 (H) JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

BRONSON FRYE, President
Building & Construction Trades Council of Southcentral Alaska
Anchorage, Alaska
POSITION STATEMENT: Gave invited testimony during the hearing
on CSHB 97, Version T.

MICHAEL GOULD, Owner/President
Excel Construction
Anchorage, Alaska
POSITION STATEMENT: Gave invited testimony during the hearing
on CSHB 97, Version T.

JESSE SUMNER, representing self
Wasilla, Alaska
POSITION STATEMENT: Gave invited testimony during the hearing
on CSHB 97, Version T.

BILL DOSS, representing self
Wasilla, Alaska
POSITION STATEMENT: Gave invited testimony during the hearing
on CSHB 97, Version T.

JEREMY APPLGATE, Program Manager
Wage and Hour
Division of Labor Standards and Safety
Department of Labor & Workforce Development
Anchorage, Alaska
POSITION STATEMENT: Gave invited testimony during the hearing
on CSHB 97, Version T.

CHRIS DIAMOND, Lead Representative
Western States Regional Council of Carpenters
Anchorage, Alaska
POSITION STATEMENT: Gave invited testimony during the hearing
on CSHB 97, Version T.

JOHN SKIDMORE, Deputy Attorney General

Criminal Division,
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered question during the hearing on CSHB 97, Version T.

PATRICK FITZGERALD, Political Coordinator
Teamsters 959
Anchorage, Alaska

POSITION STATEMENT: Testified in support of CSHB 97, Version T.

RYAN MCGOVERN, Union Representative
United Association Local Number 375
Fairbanks, Alaska

POSITION STATEMENT: Testified in support of CSHB 97, Version T.

NANCY MEADE, Chief Counsel
Alaska Court System
Juneau, Alaska

POSITION STATEMENT: Gave the Alaska Court System - Limits on Pretrial Delays presentation.

ACTION NARRATIVE

[1:01:34 PM](#)

CHAIR ANDREW GRAY called the House Judiciary Standing Committee meeting to order at 1:01 p.m. Representatives Eischeid, Underwood, Costello, Vance, and Gray were present at the call to order. Representative Mina arrived as the meeting was in progress. Also present was Representative Zack Fields.

HB 97-ORG. RETAIL THEFT/FUND;MKTPLACE SALES TAX

[1:02:30 PM](#)

CHAIR GRAY announced that the first order of business would be HOUSE BILL NO. 97, "An Act relating to theft; relating to organized retail theft; relating to property crimes; relating to aggravating factors at sentencing; establishing a statewide marketplace facilitator sales tax; and establishing the organized retail theft fund in the general fund." [Before the committee, adopted as the working document on 3/26/25, was the proposed committee substitute (CS) for HB 97, Version 34-1S0109\T, C, Radford, 3/25/25 ("Version T").]

[1:03:57 PM](#)

The committee took a brief at-ease at 1:03 p.m.

1:04:06 PM

BRONSON FRYE, President, Building & Construction Trades Council of Southcentral Alaska, stated that the Department of Labor & Workforce Development (DLWD) only investigates wage claims if they are brought forward by the bereaved employee themselves, which means the state incentives unscrupulous contractors to utilize workers who may not be willing to come forward with those complaints. Consequently, undocumented workers won't ever file a complaint with DLWD, and honest contractors who pay their employees the proper prevailing wage and overtime cannot compete against contractors who are using an underpaid workforce. He applauded HB 97 for offering another resource, which would not reward dishonest contractors and maintain parity and honesty in the bidding process.

CHAIR GRAY sought to confirm that DLWD does not allow third-party complaints.

MR. FRYE answered yes, that is correct.

1:08:20 PM

CHAIR GRAY asked how unfair bids impacts the union's ability to secure jobs for its members.

MR. FRYE explained that all unions ensure members are paid lawful wages and abide by all the laws of the state; however, they are unable to compete with dishonest contractors because of the construction bidding process, as labor costs are the only real variable. This in turn, incentivizes unscrupulous employers to cut labor costs far below the legal requirements while knowing that workers won't complain and that third-party complaints aren't allowed. Furthermore, there is no real recourse, which is why the bill is so powerful.

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MICHAEL GOULD, Owner/President, Excel Construction, said a number of contractors pay their employees as independent contractors or off-book, and don't pay payroll taxes or workers' compensation, for example, which significantly reduce their cost per hour giving them a competitive advantage. He added that jobs would be more competitive if this wasn't happening and

spoke to how this behavior is impacting the industry, as more contractors in the commercial space engage in these practices.

CHAIR GRAY asked what types of wage theft are the most common.

MR. GOULD said the misclassification of employees as independent contractors is one type, which allows them to be paid a specified price for specified work despite how many hours they work.

[1:17:20 PM](#)

JESSE SUMNER, representing self, conveyed that wage theft is pervasive in residential construction, and spoke to the misclassification of employees as independent contractors, as well as off-the-books payments. He pointed out that this could cause significant issues if someone were to get injured without proper insurance coverage. He said he supports the bill and would like to see it go further by addressing the failure to pay payroll taxes.

CHAIR GRAY asked how this makes it unfair for employers who are following the law.

MR. SUMNER explained that by complying with the law, employers who are paying workers' compensation rates and payroll tax are at an estimated 16-20 percent disadvantage for labor costs compared to employers who do not follow the law.

[1:21:30 PM](#)

REPRESENTATIVE VANCE asked about the prevalence of these issues.

MR. SUMNER estimated that at least 25 percent of residential construction labor are engaging in these practices; furthermore, he suspected that human trafficking issues are at play as well.

CHAIR GRAY asked whether there are barriers to current enforcement mechanisms and whether they are easily accessible.

MR. SUMNER shared his understanding that DLWD has said its not their concern if undocumented immigrants are being paid under the table with gift cards.

[1:24:31 PM](#)

BILL DOSS, representing self, stated that the bill would implement measures to incentivize contractors to follow the rules with stiffer penalties. He spoke to the bidding process and how consistently low bids may illuminate companies that are circumventing the Davis Bacon wage rate and overtime payments. He said [wage theft] is far too prevalent. He asked whether there is a statute of limitations for wage and hour complaints in Alaska.

CHAIR GRAY deferred the question to Mr. Applegate.

[1:28:21 PM](#)

JEREMY APPLGATE, Program Manager, Wage and Hour, Division of Labor Standards and Safety, Department of Labor & Workforce Development (DLWD), said yes, the statute of limitations is two years for minimum wage and overtime claims.

[1:30:45 PM](#)

CHRIS DIAMOND, Lead Representative, Western States Regional Council of Carpenters, said [the construction industry] experiences a lot of human trafficking, which hasn't been seen in Alaska until recent years. Generally, the workers' identification is taken from them, and they are paid sporadically on a card while being transported back and forth from hotel to job site. He explained that "coyotes" will show up with a crew of 50-100 undocumented immigrants who don't know who they work for and are being paid pennies on a dollar compared to American workers via 1099s. Often, they are paid far less than promised, if at all, and their illegal status used as leverage to discourage them from making complaints. He described a job on Joint Base Elmendorf-Richardson (JBER) involving wire fraud, worker misclassification, and wage theft, which is stealing from everyone. He reiterated that this is a prevalent issue in the construction industry and commended the legislature for addressing it in the bill. In 2023, The Century Foundation estimated that 15 percent of Alaska carpenters are misclassified. He pointed out that there are no worker protections for filing a complaint, which involves filling out paperwork and getting it notarized, and suggested that an anonymous tip line and enforcement mechanisms would be helpful.

CHAIR GRAY asked how members are being educated on reporting wage theft.

MR. DIAMOND said the first step would be determining whether the employee is being miscategorized as an independent contractor. After that, he would help the individual fill out the paperwork and get it notarized.

CHAIR GRAY asked whether he had seen this problem resolved.

MR. DIAMOND recalled a project in Sitka, in which the workers received backpay after only making \$15 per hour on a prevailing wage job.

[1:41:54 PM](#)

REPRESENTATIVE EISCHEID referenced the volunteer labor compliance officer program and asked how it would help the enforcement of wage theft.

MR. DIAMOND said any construction worker with 5 years of experience and Occupational Safety and Health Administration (OSHA) 10 training could volunteer to assist the DLWD with wage checks and help gather information.

[1:44:51 PM](#)

CHAIR GRAY asked whether DOL would investigate an allegation of criminal wage theft.

JOHN SKIDMORE, Deputy Attorney General, Criminal Division, Department of Law (DOL), said DOL does not conduct criminal investigations into any area except Medicaid fraud. Currently, DLWD has its own investigators for wage theft issues and have the ability to refer criminal cases to DOL.

CHAIR GRAY asked what would happen if the bill were to pass.

MR. SKIDMORE declined to comment on behalf of DLWD in terms of their needs. Nonetheless, he referred to AS 23.10.140, which states that failure to pay overtime or minimum wage is punishable by a \$100-\$2,000 fine and 10-90 days in jail for every day of conduct. Conversely, the structure in the bill would change the law from the number of days to the amount of violations.

CHAIR GRAY asked how many employers had been sent to jail for 2.4 years for 10 days of wage violations.

MR. SKIDMORE did not know the answer, adding that he is unaware of any criminal prosecution under these particular statutes during his time at DOL.

[1:51:22 PM](#)

REPRESENTATIVE COSTELLO asked whether this could be addressed through the human trafficking angle.

MR. SKIDMORE acknowledged that some cases could be used in that way, but not the vast majority.

[1:56:58 PM](#)

REPRESENTATIVE VANCE referred to page 5, line 7, which talks about the value of unpaid wages within "the preceding 10 years." Based on the previous comments about the statute of limitations being 2-3 years, she asked how this language would align with that.

MR. SKIDMORE acknowledged that it would be broader than anything allowed under current law under Title 23 or Title 11.

REPRESENTATIVE VANCE asked whether this would help or hinder the prosecutor.

MR. SKIDMORE said it wouldn't hinder or help the prosecution; it would change the scope.

CHAIR GRAY pointed out that "the preceding 10 years" language only refers to repeat offenders with three or more convictions or sentences.

[1:59:47 PM](#)

REPRESENTATIVE COSTELLO asked about the volunteer labor compliance officer program and whether it would be viable.

MR. SKIDMORE said he was not in the position to offer comments on this program, as he did not have enough available information.

[2:00:59 PM](#)

MR. APPLGATE directed attention to a PowerPoint presentation titled, "Wage and Hour: Unpaid Wage Processes," [hard copy included in the committee packet]. He began on slide 2, "Scope

of Wage Investigations," which read as follows [original punctuation provided]:

- Title 23
- Wage and Hour Act
- Right to Return Transportation
- Title 36
- Alaska's Prevailing Wage

[2:02:29 PM](#)

MR. APPLEGATE continued to slide 3, "Alaska's Wage and Hour Act," which read as follows [original punctuation provided]:

Alaska's Wage and Hour

- Minimum Wage
- Overtime

[2:04:00 PM](#)

MR. APPLEGATE continued to slide 4, "Return Transportation," which read as follows [original punctuation provided]:

- If an employer furnishes, finances, or agrees to furnish or finance transportation of the employee, the employer must pay to return the employee to the place of hire.
- Upon Request of the employee withing 45 days
- Upon Termination
- Upon the end of the contract
- Subsistence: \$100 per day, for ten days

[2:05:19 PM](#)

MR. APPLEGATE turned to slide 5, "Alaska's Prevailing Wage," which read as follows [original punctuation provided]:

Public Construction

"Public Construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, highways or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board.

REPRESENTATIVE COSTELLO questioned the definition of "prevailing wage" and how it's identified.

MR. APPLGATE explained that a survey is sent out every six months to look for market penetration in each industry to determine the prevailing wage rate for each classification. Once the DLWD commissioner reviews the findings, they are published in a pamphlet and workers must be paid according to the identified wage.

2:07:34 PM

MR. APPLGATE resumed the presentation on slide 6, "Prevailing Wage (continued)," which read as follows [original punctuation provided]:

Prevailing Wage (continued) Covered projects subject to the prevailing wage require: • Weekly payment • Payment based on the classification within which the work was performed • Submission of Certified Payroll to the Department Employers who do not comply to the requirements of Title 36 are subject to debarment for 3 years.

2:08:37 PM

MR. APPLGATE described the wage claim and public construction claim processes on slides 7-8.

2:10:16 PM

CHAIR GRAY asked who investigates the misclassification of employees as independent contractors.

MR. APPLGATE said each agency has their own definition of independent contractor. Wage and Hour does some investigation into the proper payment of employees using the Jeffcoat Decision by the Alaska Supreme Court to determine who has control of the employment relationship and whether the independent contractor is truly independent.

REPRESENTATIVE VANCE asked whether there is a tip line for people to report their concerns or complaints.

MR. APPLGATE said they are looking at setting up an anonymous tip line, but currently, there is an investigator who answers calls coming into the main line.

[2:14:03 PM](#)

CHAIR GRAY sought to confirm that third-party complaints are not acceptable.

MR. APPELGATE asserted that third-party complaints are investigated; however, to pursue a claim, it must be filed by the claimant.

[2:16:26 PM](#)

MR. APPELGATE continued the presentation on slides 7-8 by continuing his explanation of wage claim and public construction claim processes.

[2:22:11 PM](#)

MR. APPELGATE summarized slides 9-12, which showed the number of wage claims per fiscal year and the outcomes by percentage.

CHAIR GRAY asked why 180 cases were cleared in 2020 and only were cleared in 2024.

MR. APPELGATE pointed out that COVID-19 was a significant factor in 2020. He offered to follow up with a more thorough answer in writing.

[2:23:46 PM](#)

MR. APPELGATE concluded on slide 12, which showed the number of months to resolution.

REPRESENTATIVE VANCE asked how people being paid under the table are investigated without a paper trail.

MR. APPELGATE said those cases are typically reassigned because there's no way to pursue them.

REPRESENTATIVE VANCE asked what happens when the case is reassigned.

MR. APPELGATE said without evidence to establish that the law was violated, Wage and Hour cannot proceed with the case.

REPRESENTATIVE VANCE pointed out that people who are here illegally are less likely to make a complaint. She asked

whether Wage and Hour investigators are law enforcement officers, and whether they are required to report someone who is undocumented.

MR. APPELATE answered no, they are not criminal enforcers; further, the Wage and Hour office is not tasked under statute with investigating human trafficking. However, if they uncover employees being leverage based on their immigration status by force, fraud, or coercion, the case would be referred to law enforcement.

[2:27:56 PM](#)

REPRESENTATIVE EISCHEID suggested making the Wage and Hour office phone number more visible on the website.

CHAIR GRAY asked why so few people are making complaints.

MR. APPELATE did not know the answer.

[2:30:00 PM](#)

CHAIR GRAY opened public testimony on CSHB 97, Version T.

[2:30:20 PM](#)

PATRICK FITZGERALD, Political Coordinator, Teamsters 959, testified in support of Version T and spoke to wage theft in terms of consecutive, incorrect payments to an employee's paycheck. He opined that the habitual practice of making pay corrections on a case-by-case basis rather than correcting the payroll error itself is wage theft. He urged passage of Version T with wage theft penalties included to ensure that Alaskans receive the wages they have earned.

[2:32:56 PM](#)

RYAN MCGOVERN, Union Representative, United Association Local Number 375, testified in support of Version T and shared his personal experience with wage theft, particularly related to overtime issues and the misclassification of employees as independent contractors. He expressed his hope that the bill would help manage and correct these issues.

[2:39:34 PM](#)

CHAIR GRAY closed public testimony. He announced that CSHB 97, Version T, was held over.

PRESENTATION(S): Alaska Court System - Limits on Pretrial Delays

[2:39:44 PM](#)

CHAIR GRAY announced that the next order of business would be the Alaska Court System - Limits on Pretrial Delays presentation.

[2:40:40 PM](#)

NANCY MEADE, Chief Counsel, Alaska Court System (ACS), spoke to the Alaska Supreme Court Order No. 2038 [hard copy included in the committee packet], which was one of the recommendations from a 2023 interim court committee that was tasked with figuring how to decrease the time it takes criminal cases to get to disposition. Court Order No. 2038 expands upon the exclusionary periods to Criminal Rule 45, which states that cases should be resolved within 120 days. She walked the committee through the provisions of the court order as follows:

1. Beginning with the effective date of this order, no more than a total of 90 days may be excluded for continuances granted at the request of the defense under Criminal Rule 45(d)(2), regardless of the number of continuances requested;
 2. No more than a total of 90 days may be excluded for continuances granted at the request of the prosecution under Criminal Rule 45(d)(3), regardless of the number of continuances requested;
 3. No more than a total of 90 days may be excluded for other periods of delay for good cause under Criminal Rule 45(d)(7), regardless of the number of other periods of delay;
- Supreme Court Order No. 2038 Page 2 of 3
Effective Date: May 12, 2025
4. The court may make further exclusions under the above-named provisions only upon a showing that extraordinary circumstances exist and that the delay is indispensable to the interest of justice;
 5. The limited exclusions provided in this order are in addition to exclusions for continuances previously granted; and

6. If a continuance has previously been granted for failure to comply with a discovery rule or order, then the court should consider other sanctions under Criminal Rule 16(e)(1), including dismissing the affected charges or precluding the delinquent party from using the involved evidence at trial.

CHAIR GRAY asked how many cases would qualify for this court order.

MS. MEADE answered approximately 1,100; 800 felonies and 300 misdemeanors. In response to a follow up question about how this would work in practice, she referred to paragraph 5 of the court order and explained that starting May 12, 2025, 90 more days of continuances would be allowed.

CHAIR GRAY reasoned that all 1,100 cases would need to be dispensed by the end of summer.

MS. MEADE pointed out that defense attorneys and the prosecutors can each get up to 90 days, as well as another 90 for good cause, so if everyone were to seek the maximums, it could go longer.

[2:48:20 PM](#)

REPRESENTATIVE MINA asked what percentage of delays are due to continuances versus delays for good cause.

MS. MEADE stated that "continuance" is another word for postponement and requires good cause to be granted. So, all postponements should have good cause as a basis for the request for continuance.

REPRESENTATIVE MINA asked how long continuances were taking on average.

MS. MEADE said it depends on the situation, as there are a variety of continuances.

REPRESENTATIVE MINA asked whether there were limits on continuances prior to this order.

MS. MEADE said there were no hard limits on continuances because everything is case specific, so this would be a big change.

[2:50:41 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:50 p.m.