

HOUSE FINANCE COMMITTEE
April 27, 2001
2:00 PM

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TAPE HFC 01 - 102, Side A
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CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 2:00 PM.

MEMBERS PRESENT

Representative Eldon Mulder, Co-Chair
Representative Bill Williams, Co-Chair
Representative Con Bunde, Vice-Chair
Representative Eric Croft
Representative John Davies
Representative Carl Moses
Representative Richard Foster
Representative John Harris
Representative Bill Hudson
Representative Ken Lancaster
Representative Jim Whitaker

MEMBERS ABSENT

None

ALSO PRESENT

Mike Tibbles, Staff, Representative Williams; Spencer Wood, U.S. Coast Guard; Chris Daugherty, Legal Assistant, U.S. Coast Guard; Representative Beth Kerttula; Gretchen Kaiser, Staff, Representative Kerttula; Diane, McBride, Homer; Amy Crook, Center for Science in Public Participation; Sue Schrader, Alaska Conservation Voters; Aurah Landau, Juneau; Danielle Brown, Juneau; Robert Reges, Cruise Control Inc., Juneau; Randy Ray, US Cruise Ship Association;

PRESENT VIA TELECONFERENCE

John Hansen, President, Northwest Cruise Line Association; Al Parish; Bill Satterberg, Attorney; Tim June, Lynne Canal Conservation Council; Joe Lebeau, Mat-Su; Rion Schmidt, Cordova; Joanna Riechhold, Cordova;

SUMMARY

HB 51 "An Act giving notice of and approving the entry into, and the issuance of certificates of

participation for, a lease-purchase agreement for a seafood and food safety laboratory facility; and providing for an effective date."

CSHB 51 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with two previously published fiscal impact notes (#1 and #2), and a new fiscal impact note by the Department of Revenue.

HB 260 "An Act requiring the owners or operators of certain passenger vessels operating in the marine waters of the state to register the vessels; establishing information-gathering, record keeping, and reporting requirements relating to the vessels' graywater and sewage; prohibiting the discharge of untreated sewage from the vessels unless exempted; placing limits on discharges of treated sewage and graywater from the vessels unless exempted; establishing a commercial passenger vessel coastal protection fund; establishing a fee on commercial passenger vessels, that are not exempt from the fee, for each voyage during which the vessels operate in the marine waters of the state based on the overnight accommodation capacity of the vessels determined with reference to the number of lower berths; establishing penalties for failure to comply with certain laws relating to the vessels; authorizing the Department of Environmental Conservation to encourage and recognize superior environmental protection efforts related to commercial passenger vessels; authorizing exemptions from some laws relating to discharges from the vessels and from the fee requirements related to the vessels; requiring a report from the Department of Environmental Conservation concerning matters relating to the vessels; and providing for an effective date."

#hb51

HOUSE BILL NO. 51

"An Act giving notice of and approving the entry into, and the issuance of certificates of participation for, a lease-purchase agreement for a seafood and food safety laboratory facility; and providing for an effective date."

MIKE TIBBLES, STAFF, REPRESENTATIVE WILLIAMS reviewed the proposed committee substitute, work draft 22-LS GH1012\C, Bannister, 4/27/01 (copy on file.) He noted that there is a new mechanism for financing and a reduction of the bond issue by \$2 million dollars. He observed that equipment purchases were reduced by \$375 thousand dollars. The

reduction included: \$280 thousand dollars in deferment of ventilation upgrades, \$200 thousand dollars (in reduced) administrative space, \$115 in (reductions) in the shipping and handling area, \$150 thousand dollars in other space (reductions) including bathrooms and lockers, and \$878 thousand dollars (reduction) in investment income on the sale of the bonds. Debt service was also reduced to \$1 million dollars annually, subject to appropriation.

In response to a question by Representative Hudson, Mr. Tibbles noted that the difference in debt service of \$220 thousand dollars a year is due to the reduced size of the sale of the bonds, from reductions of the actual facility and investment earnings.

Representative Lancaster MOVED to report CSHB 51 (FIN) out of Committee with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

CSHB 51 (FIN) was REPORTED out of Committee with a "do pass" recommendation and with two previously published fiscal impact notes (#1 and #2), and a new fiscal impact note by the Department of Revenue.

#hb260

HOUSE BILL NO. 260

"An Act requiring the owners or operators of certain passenger vessels operating in the marine waters of the state to register the vessels; establishing information-gathering, record keeping, and reporting requirements relating to the vessels' graywater and sewage; prohibiting the discharge of untreated sewage from the vessels unless exempted; placing limits on discharges of treated sewage and graywater from the vessels unless exempted; establishing a commercial passenger vessel coastal protection fund; establishing a fee on commercial passenger vessels, that are not exempt from the fee, for each voyage during which the vessels operate in the marine waters of the state based on the overnight accommodation capacity of the vessels determined with reference to the number of lower berths; establishing penalties for failure to comply with certain laws relating to the vessels; authorizing the Department of Environmental Conservation to encourage and recognize superior environmental protection efforts related to commercial passenger vessels; authorizing exemptions from some laws relating to discharges from the vessels and from the fee requirements related to the vessels; requiring a report from the Department of Environmental Conservation concerning matters relating to the vessels; and providing for an effective date."

SPENCER WOOD, LIEUTENANT COMMANDER, U.S. COAST GUARD provided information on the legislation. He noted that he has been involved with the Alaska Cruise Ship initiative since its inception. He is the co-chair of the Wastewater-Working Group with the Department of Environmental Conservation. The Coast Guard has tried to assess potential conflicts with existing federal law and the regulatory package developed to implement Title 14. No conflicts with federal regulation were found in HB 260.

Co-Chair Mulder asked if Senator Murkowski's legislation contains provisions for the Coast Guard to implement testing and monitoring of vessel discharges. Commander Wood stated that there are provisions for vessel monitoring and observed that they are not in conflict with HB 260. Title 14 allows the Coast Guard to develop sampling protocol. A sampling regime is not specified.

Co-Chair Mulder observed that some questions have come up regarding the absence of the term "pollutants" in the bill. He asked what discharges would not be covered by state or federal law with the addition of the legislation. Mr. Wood stated that he did not know of any discharges that would not be covered. He added that graywater would be covered under Title 14. He acknowledged that Title 14 is silent on graywater beyond a mile and with a speed of six knots other than provision for the Environmental Protection Agency (EPA) to establish standards beyond that distance.

Co-Chair Mulder noted that claims have been made that violations such as those that occurred by the Royal Caribbean Cruise Lines would be left uncovered. Mr. Wood clarified that under federal discharge standards it is illegal for any vessel to discharge hazardous waste into U.S. waters. He observed that the Resource Conservation and Recovery Act (RCRA) covers the discharge of hazardous waste. Co-Chair Mulder noted that there are extensive recording provisions under RCRA.

Representative John Davies asked questions regarding the reports required under RCRA. Commander Wood could not provided details on the reporting provisions. He observed that it is an EPA standard and EPA report.

Representative Davies referred to the Royal Caribbean violation. Commander Wood reviewed the Coast Guard's role in the situation. He observed that the violation stretched over waters in Alaska and Florida and included the discharge of hazardous substance and oil. The company was fined for lying to the Coast Guard and for inadequate record keeping. A trail behind the vessel was spotted from the air by night with an airfield surveillance radar system (FLUR). Inspectors boarded the vessel and questioned the crew and photographed the piping systems aboard the vessel. When the

vessel came into Florida inspectors discovered that the piping had been changed.

Representative John Davies asked if the U.S. Coast Guard routinely monitor cruise ships in Alaskan waters through sampling or routine inspections. Mr. Wood explained that ships are inspected quarterly. The primary focus on the vessel is the inspection of safety equipment. About 20 percent of their effort is involved with environmental compliance. The record book, the water/oil separator and marine sanitation devices are checked. As a result of Title 14 regulations have been drafted for compliance with all environmental law.

Representative Davies observed that regulations address the requirement for equipment, without sampling, to assure that the equipment is functioning correctly. Commander Wood agreed. Representative Davies questioned who would do the sampling under the new sampling protocol. Commander Wood noted that the cruise industry would be required to hire a third party contractor approved by the Coast Guard.

In response to a question by Representative Hudson, Commander Wood discussed the approval process of marine sanitation devices under 46.CFR. Equipment must be designed so that 38 of 40 samples drawn over a 10-day period would meet a standard of no more than 200 fecal coliform and 150 total suspended solids. The Coast Guard oversees the construction of vessels and the installation of equipment. Once the system is installed there are regular spot examinations. Samples are not used to ascertain if the equipment is meeting the design standard. The equipment is viewed in regards to changes that might affect its functionality.

Representative Hudson questioned the penalties for discharge of pollutants under federal law. Commander Wood noted that there are criminal penalties for pollution depending on the intent and the amount discharged in U.S. waters.

In response to a question by Representative Lancaster, Co-Chair Mulder noted that the legislation does not apply to vessels of under 50 passengers. Commander Wood noted that laws regarding marine sanitation devices pertain to vessels of under 50 passengers. There is no other oversight.

Representative Davies asked if the U.S. Coast Guard supervises the construction of foreign flagged vessels. Commander Wood explained that a marine safety center reviews plans and build outs for ships, which are operating in the United States.

Representative Davies asked for the result of marine safety inspections that occurred in the year 2000 cruise season.

Commander Wood noted that 15 vessels exceed the standards for fecal coliform. Only 5 of these ships were reviewed before they left Alaskan waters in order to address why the standards were exceeded.

REPRESENTATIVE BETH KERTULLA testified in support of the legislation.

When I was a child, my mother wouldn't let me go downtown alone past the clock on Franklin Street. Today, in part because of the cruise industry, we have a beautiful, safe downtown, and an important economic base for Juneau and for the rest of the state. I understand the need to cooperate and to work together for resolution of issues, and I have worked very hard to do that along with many, many other people. That work has taken a good deal of time during the last two years, and some days it's felt like it has been a lot longer than two years. But again it has not been just me working. It has been many, many people. From community members to DEC to the Governor to the industry, to the Coast Guard.

Representative Kerttula stressed the need for our state to regulate the cruise ship industry. She noted that she has some serious problems with the legislation.

Representative Kerttula expressed disagreement with the House Majority Press Release:

In HB 260, Alaska establishes its own discharge standards, demands the cruise ship industry monitor and report on its compliance, and requires it to pay the costs of making sure the clean waters folks come north to enjoy remain clean.

Representative Kerttula maintained that the legislation completely cedes state authority to establish its own graywater discharge standards to the federal government (the EPA). She noted that HB 260 says that Alaska will live by whatever graywater standard EPA defines, if and when that happens. Until then, HB 260 sets a standard that begins in 2003. She asserted that this delegation of authority to EPA probably isn't legal, and stated that she could not imagine why we would "ever, give up our right to create our own laws, which is something U.S. Senator Murkowski made completely clear that we have an absolute right to do under his recent federal legislation". She stressed that Alaskans have a right to know what is happening in their waters.

Representative Kerttula referred to the demand on the cruise industry to monitor and report on its compliance. She stressed the distinction between what goes to the state and what goes to the federal government and how easy it is for

each to compliment, cooperate and coordinate information. She observed that her bill (HB 22) and the Governor's bill (HB 183) completely cover the monitoring and reporting of pollutants. She observed that HB 260 has removed the comprehensive definition of "pollutant" to limit monitoring and reporting to only treated sewage and graywater. She emphasized that treated sewage and graywater are not the only substances coming off of cruise ships.

We should be monitoring and the industry should be reporting again to the state (as is required in HB 22) on all biological materials, chemical wastes, hazardous substances, hazardous waste, industrial waste, and other types of waste streams.

You may hear that this is unnecessary because none of these substances are a problem. Fine. If they aren't it should not be much of an issue for the industry to report and DEC to monitor. But we deserve the right to know, the fundamental right for the state to get the information, and not just to know about treated sewage and a watered down definition of graywater that doesn't include these other waste streams.

Representative Kerttula observed that the industry has hair salons, photo labs, medical care, and dry cleaners on board. She maintained that the state should not, as a starting point, give up the right to know what is in any discharge or offloading from industry vessels.

Representative Kerttula asserted that, concerning monitoring and reporting, HB 260 took a step backward when it used language from an old CS for House Bill 22 that except for exemptions, completely shackles DEC's authority to implement regulations to deal with monitoring and reporting. She noted that the committee staff has an amendment to correct this error.

Representative Kerttula observed that there is a huge debate about paying the costs of making sure Alaska has clean water. House Bill 260 requires some fees. She referred to an amendment that would correct the problem of fee collections by the Department of Environmental Conservation and understood that the Committee would introduce it. She emphasized that the legislation with the amendment would still only pertain to sewage and graywater.

Representative Kerttula discussed her other concerns with the legislation:

The bill drops an inexpensive, non-litigation sanction for failing to register, it is ambiguous as to a definition of inland waters, it excludes negotiated rulemaking... it fails to deal at all with air

emissions. If HB 22, or the Governor's bill, HB 183, were before you, these issues would either be resolved, or could be readily dealt with.

Representative Croft asked where cruise ships winter. He noted that there is a fundamental difference in Southeast Alaskan waters and the Caribbean in relationship to filtering of pollutants. He suggested that this difference would require different solutions.

Representative Kertulla noted that the "dilution of pollution is the solution" is a saying at the Department of Environmental Conservation. She referred to the unique construction of the Alexander strait.

Representative John Davies referred to the state's right to know. Representative Kertulla noted that she has history with regulation and permitting through her previous job as a deputy attorney general for resource issues. She observed that no other industry is allowed to operate without regulation. She felt that the industry would support the state's right to know and noted that industry has been working with the state to get information. Industry has stepped up to the plate on many of these issues.

Representative John Davies asked if there are gaps in the information being collected by the U.S. Coast Guard. Representative Kerttulla noted that there is a limited definition of graywater under federal regulation. Federal law would not report on biological materials, chemical wastes, hazardous substances, hazardous waste, industrial waste, incinerator residue, medical waste, munitions, oil, radioactive materials. She acknowledged that it might not be a huge issue. She observed that the industry would only have to report that they do not have these substances on board or that they are held and off loaded in Canada.

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Representative John Davies maintained that it is appropriate to have different state and federal regulatory conditions.

Representative Hudson observed that no discharge is allowed unless the vessel is underway at 6 knots and inside one mile. He summarized that there would be no discharge permitted in the inside passage. He questioned if pollutant discharges have been detected, such as suspended solids. Representative Kerttulla acknowledged that it is difficult to tell and emphasized that there is not enough information.

GRETCHEN KAISER, STAFF, REPRESENTATIVE KERTULLA clarified that some of last summer's samples of graywater identified 5 or 6 heavy metals and other substances. Representative Kerttulla acknowledged that they were not cited.

In response to a question by Representative Croft, Ms. Kaiser noted that HB 260 referenced Senator Murkowski's federal legislation, which allows a vessel to drop below the fecal coliform and total suspended solids standard in the federal legislation if they have better equipment that can process their waste to a higher standard. If they can meet a more stringent standard they are able to discharge less than one mile from shore at less than 6 knots.

Representative Croft referred to section (d). He questioned if the legislation would prevent discharge of photo chemicals. Representative Kerttulla did not know and pointed out that it is not treated sewage.

JOHN HANSEN, PRESIDENT, NORTHWEST CRUISE LINE ASSOCIATION testified via teleconference. He noted that there are six principles that should be incorporated into any piece of legislation. Firstly, the legislation should be carefully crafted in order to avoid ambiguity and overlap with federal legislation or existing state law. Secondly, standards expected of the industry should be clearly established. A timeline to meet graywater standards should also be included. Thirdly, there should be clear penalties for breach. Fourthly, there should be provisions for record keeping with records available to the state. Fifthly, there should be a program of monitoring and testing. Sixthly, the industry should pay for reasonable monitoring, testing, and research, which are consistent with industry practice. He observed that HB 22 met the principles and he had previously spoken in its support (before the House Transportation Committee). He added that HB 260 appears to meet the principles and provides some additional features such as a fee schedule to pay for monitoring, testing and research, a process to issue variances, fees to fund capacity studies, and programs to recognize excellence. He stated that HB 260 would give better protection (than HB 22). He maintained that their goal is to meet standards.

In response to a question by Co-Chair Mulder, Mr. Hansen clarified that the industry is voluntarily retrofitting ships. He added that a number of ships would be fitted with a new technology to treat black-water and graywater beyond standards in the legislation. He observed that there has been a great deal of sharing of information regarding successful equipment.

Co-Chair Mulder noted that standards must be met by 2003. He questioned if the timetable is reasonable for retrofitting. Mr. Hansen thought that the cruise lines could meet the standard for graywater in the timeframe.

In response to a question by Representative Lancaster, Mr. Hansen explained that a variety of technology is being developed, including ultra violet.

Representative John Davies observed that HB 22 contained reporting on pollutants and wastes that are not covered in HB 260. Mr. Hansen maintained that the Coast Guard already requires reporting. He asserted that the data would be available to the state.

Representative John Davies asked if there is a requirement in HB 260 for the Coast Guard data to be reported to the state of Alaska. He maintained that the state should have an independent requirement for the information, but acknowledged that the information could be coordinated. The sampling data and report could be provided to both entities.

Representative Hudson recalled that Mr. Hansen indicated that a number of the ships would use shore power while in Juneau.

Mr. Hansen clarified that there would be five Princess line ships that would plug into shore power during the current year. There would be no propulsion engines or generators operating during this time. Two ships would use gas turbines instead of diesel for the main propulsion systems. Diesel systems in other ships are being improved. Most ships would have stack monitors for visible emissions and a television monitor pointed at the stack.

Co-Chair Mulder noted that these steps are voluntary. Representative Hudson asked if the industry is under-writing a program to monitor outside of their companies.

Mr. Hansen noted that a program was started last August to monitor ambient air quality. The data was made available to the Environmental Protection Agency. There was not a problem from an ambient air standpoint. Monitors are being placed at higher and lower elevations. The total cost would be \$130 thousand dollars for the season. Monitoring would be continued during the winter months to provide a baseline.

Co-Chair Mulder questioned if any other state requires as strict a standard as proscribed in HB 260. Mr. Hansen was not aware of any other state with strict standards, which were as strict.

TIM JUNE, LYNNE CANAL CONSERVATION COUNCIL testified via teleconference. He asked the Committee to support HB 22 or the Governor's bill. He maintained that a revocable clause is needed to deny entry of multiple offenders into the state. He observed that the judicial problem has been a barrier to regulation of the industry. The permit system would be similar to (the one used in) Glacier Bay. Convicted

felons are not allowed to operate within the park boundary. He observed that the Royal Caribbean Cruise Line was barred for 5 years after their violations. He stressed that ships should meet Alaskan water quality standards, just like other industries that operate in the state. He recommended that that the Alaskan public deserves third party verification. The public has an interest in protecting the resource in the state.

Mr. June discussed the Royal Caribbean violation. He asserted that industry engineers routinely referred to their logbooks as fairy tale books in Norwegian. He maintained that third party monitoring is essential. The first testing by the state of Alaska in the year 2000 showed a number of violations. There are a number of things that have not been tested for, such as toxicity. This is a concern. Their primary question is: are the discharges toxic in a marine environment? There are no testing plans. The legislation also fails to look at elevated chemical oxygen demand (COD) levels. Elevated COD levels were found in the previous years. There were few tests in the year 2000 and tests that were done were inconclusive and incomplete. He referred to waste streams. The legislation looks at gray and black water. They have requested testing of all discharges by the industry. He referred to the question: Why should state and federal standards be the same? He pointed out that Alaska has a unique environment and an economic requirement since many of the state's industries demand clean water.

Mr. June discussed the issue in regards to commercial fisheries. He observed that he recently attended a Southeast region wide Native environmental conference. Concerns were mentioned regarding cruise ship discharges. Seaweed in the Haines area has been affected. He acknowledged that there are other contributing factors and emphasized the need for more information. Lesions have been found on salmon during the last five years. Fishers are attempting to market Alaska salmon as organic. Stringent water quality regulations are needed to assure the consumer that these salmon are clean. He noted that nets in Lynn Canal are collecting a brown residue, which must be washed after every set. There are a number of swimming beaches that should be tested for impacts on public health. The industry had the Seward SeaLife Center do a review on data collected. The study recommended a 1,000 square area to dissipate the existing discharges. This would be a 400 sq mile area per ship per day. An area of 100 miles by 4 miles would be needed for one ship discharging per day or half of the Inside Passage. There can be as many as 5 - 6 ships discharging in this area at a time.

JOE LEBEAU, MAT-SU testified via teleconference. He observed that Alaskan waters are special to Alaskans and the rest of the world. He referred to RCRA. He noted that new chemicals are developed almost every day. Some chemicals used in

cleaning solutions are not regulated by RCRA but are still toxic. Some chemicals that are safe by themselves are dangerous when mixed. He maintained that it is necessary to know what chemicals are in the discharges in Alaskan waters. He noted that filter feeders such as clams and mussels consume and concentrate wastes discharged from cruise vessels. He maintained that the cruise ship industry's track history in U.S. waters prove the need for enforcement of environmental laws. The cruise ship-sampling program in 2000 showed that graywater was more dangerous than most municipal wastewater discharges. Discharged black water often did not meet standards. State oversight is needed of the industry.

RION SCHMIDT, CORDOVA testified via teleconference in support of strong discharge controls. He maintained that the state should have the right to manage the industry. He observed that the industry could dump waste in any manner in Prince Williams Sound. He stressed that toxins would go to the bottom and remain there. He emphasized the importance of clean water. He suggested that Prince Williams Sound and Resurrection Bay be made into a no discharge zone.

JOANNA RIECHHOLD, CORDOVA testified via teleconference in opposition of HB 260. She urged the Committee to pass something with teeth and maintained that HB 260 does not have sufficient teeth.

SUE SCHRADER, JUNEAU read the testimony of DIANE, MCBRIDE, HOMER. Ms. McBride has been a coastal Alaskan resident since 1967, working as a fisherwoman, teacher, and small business owner

HB 260 is shocking. There is simply no time for the public process to occur before the end of this session. Alaskans have had less than 24 hours to review this bill. This is a closed-door bill, worked with the cruise ship industry, so that they can get what they want. This looks terrible to Alaskans, and it is a poor reflection on the legislative body supporting this 11th hour bill. Many people, in good faith, have worked for two years on Representative Kerttula's bill and the Governor's bill. These bills allowed full public process.

Why would you want to pre-empt the state? It is the state that should monitor, test, and enforce. Voluntary compliance and reporting by this huge industry just will not cut the muster with Alaskans. HB 260 is not a compromise bill at all.

It has no provisions regarding the big pollutants - hazardous wastes, air emissions, and solid wastes. DEC needs to be the regulating body - so sampling, inspections, and reporting can be accomplished. The

state has the right to know, and Alaskans have the right to know what the cruise industry is putting into our waters and air. We want a comprehensive picture of what they are leaving behind. The cruise industry, bringing in almost one million passengers, into state waters, can be the state's largest polluter. Alaskans don't want another big surprise like last summer. We want clean air and water. I conclude that HB 260 is getting special treatment, and this is wrong. It must go through the proper public process, and at the very least, be heard in transportation and resource committee hearings. HB 260 is bad for Alaska. Hopefully, HB 22 will get it's hearing in this committee as quickly as HB 260 did. Thank you. Diane McBride

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SUE SCHRADER, ALASKA CONSERVATION VOTERS testified against the legislation. She did not feel that the industry would be testifying to "glowing" reports of air emissions if violations had not been found and prosecuted. She noted that over the past several years, many of their members have actively participated in public opportunities to discuss regulation of cruise ship discharges and volunteered hours of time to work constructively with industry and government agencies to address this issue. She noted that they supported legislation introduced last year and earlier this year by Rep. Kerttula and Governor Knowles.

Ms. Schrader observed that they have procedural concerns and substantive concerns with HB 260. She maintained that there had been disdain for the public process. She expressed concern with the "bill's failure to protect Alaskans and our resources from a wide range of pollutants that the bill conveniently neglects to address" and added that "if the cruise ship industry is as clean as they would like the world to believe, they should have no hesitancy submitting to monitoring and reporting of air emissions and solid and hazardous waste discharges."

AMY CROOK, CENTER FOR SCIENCE AND PARTICIPATION, JUNEAU, commented that she had worked as a technical advisor with the Department of Environmental Conservation Cruise Ship Initiative Working Group on wastewater concerns for the last year and a half. She expressed concern with the process that brought the bill before the Committee. She maintained that the legislation circumvents collaborative efforts. She spoke to technical concerns. She referred to data by the Department of Environmental Conservation and the Seward Sea Life Center. Last year's study found priority pollutants, largely heavy metals, in high concentrations. Copper, lead

and zinc were found to be up to a thousand times higher than current state water quality standards from several ships from several places. House Bill 260 would not continue to sample for these contaminants. These heavy metals concentrate in seafood. House Bill 260 would not address the impacts of the heavy metals.

Ms. Crook stressed that the results of the discharges do have concentrations of contaminants that will build up in seafood and shellfish. She added that the industry has been requested to do toxicity testing. Every other industry in the state has to look at the toxicity of their waste streams. As the cruise ship industry grows, there will be higher levels of discharge into smaller and smaller areas, which concentrates the rate. The industry has not looked at areas that have high sensitivity where the wastes are not causing and in the future will cause impacts to resources or residents that harvest and recreate in those areas.

Ms. Crook expressed concern with toxicity, which could cause death or long-term harm in the resources. The concentration of contaminants into smaller areas is of great concern. She stressed the need for the cruise industry to look at some of the sensitive areas in Southeast where the ships go everyday. She stressed the need to assure that discharge in areas of low flushing are not occurring in order to prevent the concentration of contaminants. The bill would not allow that sampling to go forth.

Ms. Crook stated that the state and local interests have the best understanding of how to address the needs of the state of Alaska. She argued that the EPA does not understand local issues and how to address them. A regulatory program would help the cruise industry to assure that their discharges are clean, which would result in good PR (public relations). They could assure passengers that they are not harming the areas that they are visiting. The legislation circumvents the ability of the state to take the program forward.

Ms. Crook referred to hard rock mining and the affect of that industry on shellfish and seafood.

Ms. Crook summarized that the Seward Sea Life Center agrees with the recommendations brought forth for toxicity testing, bioaccumulation testing and review of no discharge areas in sensitive areas and areas near shore. She advised that the recommendations come from the scientific community.

Representative Hudson asked if Ms. Crook would ban all cruise ships from Alaskan waters if she were a policy maker. Ms. Crook explained that she would not and stated that she would ask the state to consider the same issues, which every other industry has been asked to consider. She stated that she would look at the information being brought forth. Right

now, she counseled the Committee to look at the areas with the highest resource value and the resources that are being harmed and either reduce the number of ships or not discharge in those areas. In the long term, the industry should be brought into compliance with existing standards.

In response to a question by Co-Chair Williams, Ms. Crooks explained that the Coast Guard, Department of Environmental Conservation and a third party contractor provided data.

Representative John Davies asked what were the sources of heavy metal pollutants and questioned where testing should occur. Ms. Crook stated that the next step would be a toxicity identification evaluation and then a toxicity reduction evaluation. All other industry in the state would have to go through these steps when they find contaminants in their wastewater. A toxicity identification evaluation would look at all discharges and identify where contaminants are coming from. All waste streams would be reviewed. Then there would be analysis of each of the contaminate stations to determine why they were generated. There are a tremendous number of fixes.

Representative John Davies asked if waste streams were identified from those uses. Ms. Crook noted that the industry has been requested to look at the waster streams individually to allow understanding of the contaminant level. Instead samples were taken as a composite to save money. Ms. Crook replied that it is a short-term intense analysis. The same level of investigation would not have to be repeated once the evaluation were done.

DANIELLE BROWN, JUNEAU, testified in opposition to the legislation. She stressed the importance of the coastal waters of Alaska and the coastal marine resources. She did not think that the cruise ship industry is under siege and stated that she would rather have the cruise ships out of Alaska then have them pollute Alaskan waters.

Ms. Brown noted that she kayaked 4 1/2 months: over 1100 miles in British Columbia and Southeast Alaska. She primarily sustained herself on the marine resources: crab, fish, sea cucumbers, sea urchins, clams, oysters, and seaweeds. She emphasized that the state needs to do testing, monitoring and enforcement. She maintained that the state cannot rely on the cruise ships "voluntary compliance" and pointed to recent occurrences of discharge into Alaskan waters.

Ms. Brown asserted that there is a public right to know issue regarding the safety of the marine resources. She

pointed out that HB 260 does not regulate air emissions, waste discharge or hazardous waste.

Ms. Brown noted that the Governor and Representative Beth Kerttula introduced other bills (HB 183 and HB 22). She maintained that Representative Beth Kerttula's bill, HB 22, is more comprehensive. She noted that HB 260 is a transportation and resource issue and questioned the amount of public input.

ROBERT REGES, ATTORNEY, CRUISE CONTROL INC., JUNEAU, spoke to questions raised in the Committee during the course of the meeting. He observed that he was in environmental law for 16 years: four of which were focused solely on RCRA. He noted that this is not the first legislation of its kind. A bill similar to HB 22, which addressed cruise ship control, was adopted by the state of California.

Mr. Reges stressed that the state should be doing more than the federal government or the state of California. He pointed out that there are no islands in California. The (cruise ship) operations are different in other states because of the island situation. He noted that 15 to 20 percent of the gross revenues generated by the cruise lines is earned in Alaska. Mr. Reges stated that Juneau is the 5th most visited destination in the world. Alaska is getting the bulk of the impacts. In addition, Alaska has other issues, such as subsistence. He referred to the Florida Keys and a study of impacts.

Mr. Reges characterized HB 260 as a "ask me no questions and I will tell you no lies" bill. He acknowledged that not everything in HB 260 is bad. The fee structure is admirable. He applauded the Coastal Protection Fund and the recognition program. He added that HB 260 reaches the smaller vessels of 50 instead of 500 and has a compliance schedule for smaller operators allowing years to come up to speed. He acknowledged that some provisions (in HB 260) are exceptional and should be added to HB 22. He stressed that HB 22 should be used as the vehicle because of what is not in HB 260.

Mr. Reges spoke to hazardous waste. Under RCRA it is a violation to dump raw hazardous waste. He pointed out that all wastes that go into the graywater waste streams from rooms are household hazardous wastes, which are not regulated by RCRA. These could be regulated on the cruise ships and are captured under HB 22. Dry cleaners, hair facilities and other semi-commercial facilities are considered as conditionally exempt small quantity generators. There is no permitting or reporting unless they are off-loaded. He acknowledged that it would be a violation

to dump wastes overboard, but emphasized that it would be hard to detect. Federal legislation only deals with body waste. The definition of "graywater" in HB 260 excludes other waste streams. The definition in HB 22 comes from the federal Clean Water Act and does not exclude other waste streams. HB 22 had a provision to require reporting of mixed substances.

Mr. Reges discussed solid wastes. He noted that HB 22 asks the industry to tell where off loaded wastes are put. He pointed out that the information serves several good purposes and was not previously objected to by the industry. The use of shore based infrastructure results in the need to anticipate off loading. In addition, under HB 260 a less than honorable operator could put wastes on a small noncommercial vessel and dump them without penalty.

Mr. Reges referred to air pollution. He emphasized that Alaska has unique terrene. Vessels have continuous emissions monitors, which resulted from a compromise in a litigation settlement. He spoke in support of inclusion of air monitoring provisions in the legislation. He suggested that there could be immunity for self-enforcement.

Mr. Reges noted that HB 260 does not pick up priority pollutants. Operators, under HB 260, could discharge directly from waste streams from on board beauty salons and photo processing because it is not graywater. House Bill 260 also took out the sanctions provision of HB 22. He noted the state could assess damages to an egregious violator under HB 260, but HB 22 also developed penalties for those that failed to register.

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Mr. Reges stated that HB 260 suffers from an under inclusive regulatory enabling provision. He explained that the power to gather more information is not implicit in the Department of Environmental Conservation's obligation to report. The provision states that the department must assess information submitted by industry, which is limited. He felt that it would be difficult for the department to use implied authority under the reporting authority to bolster a narrowly crafted enabling provision. This provision is under inclusive and the department needs enough authority to secure data.

Representative Hudson asked if the department would have access to the Coast Guard's inspections and reports. Mr. Reges responded that they could ask, but noted that the data could be enforcement sensitive and protected under the Freedom of Information Act. Federal agencies are reluctant to share with state agencies because the public record laws of Alaska are much broader.

Mr. Reges submitted a written comparison (copy on file.) He concluded that the substance of HB 22 should be included: off loading provision, provision for pollutants, sanctions and administrative penalties.

Representative Lancaster asked how often a ship has to discharge. Mr. Reges observed that vessels vary. Some have longer periods, as much as 6 days; others must discharge in a matter of hours. Representative Hudson observed that many of the water systems are salt water and on shore facilities would corrode if they were used.

Representative Croft referred to the Resource Conservation and Recovery Act of 1976. He questioned if RCRA has the vessel underway at 6 knot, 1-mile restrictions. Mr. Reges observed that RCRA has no provisions in regards to vessels. He provided a brief history of RCRA. He explained that the Act was crafted in 1976 because the Air Pollution Act and the Clean Water Act resulted in a consolidation of wastes. Vessels are excluded from many of the provisions in the regulatory scheme. Specific to cruise ships, any wastes that are hazardous, that come out of the passenger rooms, are not regulated in any way by RCRA. On shore, a permit would be required under the Clean Water Act. That which is exempt from RCA is picked up under the monitoring provisions of the permit under the Clean Water Act. Vessels are not subject to this permitting. He acknowledged that EPA may have the authority, but noted that EPA has never regulated these pollutants.

Representative Croft questioned if either the Clean Water Act or RCRA have provisions similar to the underway at 6 knots, 1 mile idea. Mr. Reges noted that neither contain these requirements. The language is in the Murkowski legislation.

Representative Croft observed that Murkowski's federal legislation, HB 183 and HB 22 understand that there is a difference between discharging at a stop near the shore and discharging in motion. He concluded that if the discharge of these pollutants are not restricted than discharge could occur near shore.

Mr. Reges agreed and explained that under HB 260 a distinct waste stream from a photo processing lab that was piped straight over the side would not violate HB 260. It would be a violation of RCRA, but there would be no way for EPA to know.

Mr. Reges noted that the Coast Guard found the discharge of the Royal Caribbean during an inspection. The Coast Guard ascertained that piping had been changed. He observed that under HB 22, the industry would not have to monitor for the

waste streams in the graywater if the movement of the waste stream was reported with precision. Reporting of waste streams would have to be reported.

In response to a question by Representative Croft, Mr. Reges explained that there are two categories of hazardous waste under RCRA. One is the concentration base; is it concentrated enough to fail a toxicity test. There are a list of items that are hazardous, such as dry cleaning, under any concentration. Commercial operations on the vessel are generators of hazardous waste. If there is a conditional exemption, wastes can be handled at any approved solid waste facility. Dumping over the side is not an approved solid waste facility and would be a violation of RCRA. The problem with HB 260 is that there would be no way for the state to know and very little way for the Coast Guard to find out, except through luck. HB 22 set up a regime to follow the waste stream.

RANDY RAY, US CRUISE SHIP ASSOCIATION testified in support of the legislation. He assured members that the Association shares the goal of protecting Alaska. He noted that their ships carry 36 to 135 passengers, with one member presently building a vessel for 249 passengers, which would be used for the Alaska trade. He observed that their vessels are operationally different from the large cruise vessels. He emphasized that combining small and larger vessels into one law can lead to problems. Their vessels currently discharge 4,000 gallons of gray and black water a day. Large cruise ships discharge 250,000 to 300,000 gallons. They use marine sanitation devices, certified by the Coast Guard. He noted that 200 fecal coliform must be met in 38 of 40 samples. The two samples that are thrown out can be higher. The bill requires that all samples meet the standard every time. If not, severe penalties are levied. He noted that new technology would not work on smaller cruise ships. Their systems use salt water and would not work with the new systems. The systems also require large space not available on smaller ships. Smaller vessels must rely on standards with 10 - 20 year old technology. He pointed out that they were told that they did not need to do monitoring. They self monitored anyway and found that they were in need of improvement. One of their vessels passed both the gray and black water tests. Other vessels are communicating with this one to assess what is working. They have continued to test even in foreign waters and there has been improvement.

Mr. Ray observed that the legislation would make allowances to exempt small vessel operators until the year 2006. This would allow them a chance to ferret out new technology and have it installed. He questioned if the exemption would apply. Currently, the definition is limited to vessels below 200 passengers. He reiterated that one of their members is building a vessel for 249 passengers. He observed that the

only technology available to this operator is what is available today. The size definition would penalize the operator who is trying to build a U.S. flag boat to come to Alaska. Senator Murkowski's legislation in recognition of these problems set the limit at 500 passengers. Representative Kerttula's legislation also used a definition of 500 passengers.

Mr. Ray discussed page 9, exemption for certain smaller vessels. He noted that the department "might," grant an exemption for commercial passenger vessels. He asked that "might" be changed (to require the exemption). He also requested that 200 passengers be changed to a higher number, perhaps the same as Senator Murkowski's (500).

Co-Chair Mulder questioned if most ships are either below 250 or significantly higher. Mr. Ray noted that that there are some ships on the Mississippi River that carry 498 passengers.

Mr. Ray referred to subsection (2) and (3) on page 9:

(2) Owner or operator demonstrates that environmental protection equivalent to that afforded by the prohibitions in AS 46.03.463(a) - (c) can be attained through other means appropriate for the specific configuration or operation of the vessel and the owner or operator agrees to use those other means;

3) Owner or operator submits satisfactory evidence that additional time is needed to make the changes that would be necessary to eliminate the discharges that are prohibited under AS 46.03.463(a) - (c); and

Mr. Ray suggested that the use of "and" at the end of subsection (3) would allow the Department of Environmental Conservation to require a more stringent standard. He explained that they are concerned about subsection (c) on page 9:

(c) As a condition of granting an exemption under this section, the department may impose special terms and conditions to require additional environmental protection or research if necessary to prevent the vessel owner or operator who has an exemption under this section from obtaining a significant economic advantage over its competitors as a result of the exemption.

An employee of the Department of Environmental Conservation told Mr. Ray, that if one operator spent \$100 thousand dollars for a marine sanitation device that the other operators could be assessed the same amount on their exemption permit for research costs.

Representative John Davies concluded that the issue would be that operators with an exemption would have an unfair advantage. Mr. Ray disagreed with the provision.

Mr. Ray discussed page 4, line 18. He explained that their marine sanitation devices work best when they are operated 24 hours a day. They are more likely to meet the standards if they continue to operate while they are docked. He maintained that vessels should be allowed to discharge if they meet the standard. Some vessels do not have holding tanks for graywater. This provision would ban some older vessels from operating in Alaska.

Mr. Ray stressed that the problem is to address ships that operate differently under one piece of legislation. Representative Davies noted that subsection (e) exempts small vessels from (d).

Representative Croft pointed out that subsection (e) is a higher standard. Representative John Davies summarized that the ships would be exempt if they meet all the state water quality standards. Mr. Ray observed that the purpose is not to resolve all the issues today. He emphasized that there are more steps in the process and more can be solved once the technical amendments are addressed.

RUSS HEATH, JUNEAU read testimony on behalf of AURAH LANDAU, JUNEAU.

Conservative estimates tell us that tourism is growing at 10% per year, which means that cruise ship tourism can double in just 7-10 years. At EPA hearings this fall to discuss cruise ship hearings, the room was packed, with standing room only. Over 90% of the people asked for better testing, monitoring, and compliance enforcement, and for the right to know what is being dumped into our waters. With so much public interest, and the cruise industry a growing force in Alaska, it's certainly appropriate for a cruise ship bill to have a full round of hearings. I'm dismayed, that HB 260 was introduced yesterday on the House floor, and had a hearing scheduled within hours. The consequence has been that this bill has been put together with very little public comment and should not be raced through the legislative process. Both HB 22 and HB 183 have been developed in response to extensive public review and agreements reached among state agencies, bill sponsors, and cruise industry and cruise industry representatives. Rushing HB 260 to hearing, and denying hearings for HB 22 and HB 183, is an unacceptable end run around the public process and the people of Alaska. Because of the shortened review process, local governments, fishing groups, local tourism operators,

and other groups of people who's lives and livelihoods will be affected by this bill will not have a chance to adequately review and testify about HB 260.

I have two general concerns and several specific ones that I would like to talk about. While the Governor's bill and HB 22 both address air and water emissions, and solid waste, HB 260 is only concerned with water. HB 260 is not an adequate substitute for either HB 183 or HB 22. Two, HB 260 hands the Federal government authority to set discharge levels, without some or these levels even existing, yet in law. Regardless of whether or not standards exist, I do not want folks in DC or Seattle, who may know nothing about Alaska, telling us what levels of emissions are ok for our beaches, fishing grounds, herring spawning waters, sport fish areas, and subsistence tidelands and other waters. The State should not cede authority, in exchange for voluntary testing and reporting by the cruise lines.

Other specific points are:

- One, HB 183 contains a provision that if ships are out of compliance with their permits, they aren't invited back into our waters. According to HB 260, this enforcement measure is substituted with voyage fees. At first glance this sounds reasonable, but these fees are very low, and are set to end in January 2004. This is no incentive for cruise lines to upgrade their systems to protect our waters.
- Secondly, HB 260 requires the cruise line to sample treated sewage and graywater sampling only twice during the season, once at the beginning and once at the end. Twice is not enough! Without mid-season sampling, there is not enough information available to be able to identify and correct problems as they occur during the months that the ships are afloat on Alaskan waters.
- Three, records are only to be kept for three years. Under federal reporting requirements for water and air emissions, companies are required to keep records for a minimum of five years. In some cases, the records are to be kept and available for the life of the facility. State laws should be consistent with federal reporting requirements. With DEC having to request records instead of regularly receiving them, it will far more difficult for members of the general public to know what's being put into our waters.
- The last point, it has been suggested that HB 260 goes

beyond any other state's laws. With no state laws on the books, HB 260 goes beyond nothing. It only steps back from the protective measures outlined by HB 22 and HB 183. With commercial fishing being Southeast's largest private employer relying so heavily on our rich marine waters, Alaska has much more to lose than other states, and should rightly be on the forefront of any efforts to adequately protect our resources.

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ADJOURNMENT

The meeting was adjourned at 5:00 p.m.