

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

March 13, 2002

3:50 p.m.

**MEMBERS PRESENT**

Representative Lisa Murkowski, Chair  
Representative Andrew Halcro, Vice Chair  
Representative Kevin Meyer  
Representative Pete Kott  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative Joe Hayes

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE JOINT RESOLUTION NO. 45  
Relating to the labeling of salmon food products.

- MOVED HJR 45 OUT OF COMMITTEE

HOUSE BILL NO. 319  
"An Act relating to civil liability for commercial recreational activities; and providing for an effective date."

- MOVED CSHB 319(L&C) OUT OF COMMITTEE

**PREVIOUS ACTION**

BILL: HJR 45  
SHORT TITLE: SALMON LABELING  
SPONSOR(S): REPRESENTATIVE(S) KERTTULA

Jrn-Date	Jrn-Page		Action
02/19/02	2307	(H)	READ THE FIRST TIME - REFERRALS
02/19/02	2307	(H)	FSH, L&C
03/04/02		(H)	FSH AT 3:30 PM CAPITOL 124
03/04/02		(H)	Moved Out of Committee
03/04/02		(H)	MINUTE(FSH)
03/06/02	2483	(H)	FSH RPT 5DP
03/06/02	2483	(H)	DP: COGHILL, SCALZI,

03/06/02	2483	(H)	KERTTULA, KAPSNER, STEVENS
03/06/02	2483	(H)	FN1: ZERO(H.FSH)
03/06/02	2496	(H)	COSPONSOR(S): STEVENS, COGHILL, SCALZI,
03/06/02	2496	(H)	CRAWFORD
03/13/02		(H)	L&C AT 3:45 PM CAPITOL 17

BILL: HB 319

SHORT TITLE: RECREATIONAL ACTIVITY LIABILITY  
SPONSOR(S): REPRESENTATIVE(S) KOTT

Jrn-Date	Jrn-Page		Action
01/14/02	1958	(H)	READ THE FIRST TIME - REFERRALS
01/14/02	1958	(H)	L&C, JUD
02/11/02	2210	(H)	COSPONSOR(S): DYSON
03/13/02		(H)	L&C AT 3:45 PM CAPITOL 17

**WITNESS REGISTER**

SARAH BRYNER, Intern  
to Representative Beth Kerttula  
Alaska State Legislature  
Capitol Building, Room 430  
Juneau, Alaska 99801  
POSITION STATEMENT: Presented HJR 45 to the committee on behalf  
of Representative Kerttula, sponsor.

REPRESENTATIVE BETH KERTTULA  
Alaska State Legislature  
Capitol Building, Room 430  
Juneau, Alaska 99801  
POSITION STATEMENT: Testified as sponsor of HJR 45.

SUE ASPELUND  
Cordova District Fishermen United  
PO Box 939  
Cordova, Alaska 99574  
POSITION STATEMENT: Testified in support of HJR 45, saying it  
is an excellent example of state government supporting federal  
government.

GERALD (JERRY) McCUNE, Lobbyist  
for United Fishermen of Alaska (UFA)  
211 Fourth Street, Suite 110  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in support of HJR 45.

LINDA SYLVESTER, Staff  
to Representative Pete Kott  
Alaska State Legislature  
Capitol Building, Room 204  
Juneau, Alaska 99801

POSITION STATEMENT: Presented HB 319 on behalf of  
Representative Pete Kott, sponsor.

BRUCE BARKER, Vice President and General Manager  
Mount Roberts Tramway  
490 South Franklin  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in favor of HB 319 and gave  
specific examples from the Mount Roberts Tramway operation.

MIKE WINDRED, Director of Operations  
Alaska Travel Adventures  
1122 Timberline Court  
Juneau, Alaska 99801

POSITION STATEMENT: Testified in favor of HB 319 and gave  
specific details about how the bill would apply to his company.

AL CLOUGH  
PO Box 24603  
Douglas, Alaska 99824

POSITION STATEMENT: Testified as a private aircraft owner and  
operator in favor on HB 319.

JOHN GEORGE, Lobbyist  
for National Association of Independent Insurers  
3328 Fritz Cove Road  
Juneau, Alaska

POSITION STATEMENT: Testified on HB 319.

#### **ACTION NARRATIVE**

TAPE 02-33, SIDE A  
Number 001

CHAIR LISA MURKOWSKI called the House Labor and Commerce  
Standing Committee meeting to order at 3:50 p.m. Members  
present at the call to order were Representatives Hayes,  
Crawford, Rokeberg, Halcro, and Murkowski. Representatives Kott  
and Meyer arrived as the meeting was in progress.

HJR 45-SALMON LABELING

CHAIR MURKOWSKI announced that the first order of business would be HOUSE JOINT RESOLUTION NO. 45, Relating to the labeling of salmon food products.

Number 025

SARAH BRYNER, Intern to Representative Beth Kerttula, Alaska State Legislature, came to the witness table accompanied by Representative Kerttula, sponsor of HJR 45. Ms. Bryner explained that HJR 45 simply supports actions by Alaska's congressional delegation to acquire labeling of farmed and wild salmon. This labeling would provide consumers with the knowledge of what is in their food and where it came from, as well as providing Alaska's salmon industry "the leg up that it needs." She remarked that although Alaskans know that wild salmon is superior to farmed salmon, the rest of the country is just beginning to realize it. In this month's Vogue magazine, for example, a food critic discusses his distaste for farmed salmon. With labeling, consumers will be forced to choose between a filet labeled "Alaskan salmon" and a filet labeled "Chilean salmon."

CHAIR MURKOWSKI noted that the committee packet includes a host of letters in support of HJR 45.

Number 056

REPRESENTATIVE ROKEBERG requested a synopsis of the federal legislation.

MS. BRYNER explained that the federal legislation is an amendment to the "farm bill," which requires country-of-origin labeling for salmon and that the [U.S.] Secretary [of Agriculture] has the ability to label Alaska wild salmon as organic. In further response to Representative Rokeberg, Ms. Bryner related her understanding that the congressional legislation originated in the Senate, but now is H.R. 2646.

Number 092

CHAIR MURKOWSKI pointed out that the [federal legislation] would require country-of-origin labeling. Therefore, she asked how salmon would be labeled as Alaska salmon.

MS. BRYNER directed the committee to Section 282(a)(C)(ii) and said she wasn't sure if that required labeling by state.

CHAIR MURKOWSKI expressed the hope that Alaska wouldn't be prohibited from labeling the salmon as Alaska salmon.

Number 117

REPRESENTATIVE BETH KERTTULA, Alaska State Legislature, testified as the sponsor of HJR 45. Representative Kerttula explained, "You could always say that it's Alaskan, but this would absolutely require the labeling, so we'd get the other country's fish label and farmed-fish label."

Number 124

SUE ASPELUND, Executive Director, Cordova District Fishermen United, testified via teleconference, mentioning that she represents the fishing fleets of Area E. Ms. Aspelund expressed pleasure in supporting HJR 45, which is an excellent example of state government supporting federal government. She noted that the large growth in importation of farmed fish products competes with Alaska's wild salmon and thus severely impacts the viability of fishing in this state. Therefore, labeling will help differentiate farmed fish from wild salmon for consumers.

Number 139

GERALD (JERRY) McCUNE, Lobbyist for United Fishermen of Alaska (UFA), testified in support of HJR 45. He informed the committee that after his last discussion with U.S. Senator Murkowski, he understood that the labeling would be [from the state of origin]. This resolution is a good step. Mr. McCune recalled [that the federal legislation] called for the labeling to include whatever is added to the fish, such as salt would be added for smoked fish.

REPRESENTATIVE ROKEBERG inquired whether anything in federal or state law would prohibit a retailer from labeling Alaska salmon.

MR. McCUNE answered that he didn't believe so. He noted that in Alaska some markets advertise Alaska salmon and some label them as farmed, wild, or previously frozen wild. He related his belief that Washington State is the only state with a labeling law for salmon. This [federal legislation] speaks to the entire U.S. He noted that much of the [salmon] from Norway is already labeled with the country of origin, but that from Chile isn't.

MR. McCUNE, in further response to Representative Rokeberg, explained that Washington State passed a legislative law, but there was no money to implement it; he indicated it is now being enforced. The labeling in Washington State refers to whether the [salmon] is farmed or wild, and it doesn't prevent [labeling from the country of origin].

Number 186

REPRESENTATIVE ROKEBERG indicated perhaps Alaska needs labeling similar to that of Washington State.

MR. McCUNE mentioned SB 208, which addresses the Alaska labeling law.

Number 216

REPRESENTATIVE HAYES moved to report HJR 45 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, HJR 45 was moved out of the House Labor and Commerce Standing Committee.

#### HB 319-RECREATIONAL ACTIVITY LIABILITY

CHAIR MURKOWSKI announced the final matter before the committee, HOUSE BILL NO. 319, "An Act relating to civil liability for commercial recreational activities; and providing for an effective date."

Number 226

REPRESENTATIVE KOTT, sponsor of HB 319, told the committee the bill establishes responsibility for recreational [business] owners and makes provisions for what they must do to take care of individuals who participate in their activities. He said it also places requirements on individuals. Furthermore, it would protect business owners who provide for Alaska's tourists from excessive lawsuits.

Number 254

REPRESENTATIVE MEYER moved to adopt the proposed committee substitute (CS), version 22-LS1260\C, Ford, 1/31/02, as the working document. There being no objection, Version C was before the committee.

Number 261

LINDA SYLVESTER, Staff to Representative Pete Kott, Alaska State Legislature, testified before the committee. She told the committee that over the past 20 years, many recreation-oriented states have enacted statutes defining the "inherent risk doctrine" that pertains to commercial recreational activities. She said that doctrine is the common-law provision that generally says a recreation provider has no duty to protect participants from the inherent risks of recreation activities. She drew a distinction between inherent risks and a provider's negligence.

MS. SYLVESTER told the committee that providers can be held responsible if a court or jury finds them negligent. The line between negligence and inherent risk is blurred. She defined negligence as a provider's failure to fulfill a duty owed to a participant - generally, the exercise of reasonable care under the circumstances. The inevitability of a certain level of danger is recognized in law by means of the concept of inherent risk. Ms. Sylvester said many providers must frequently fend off the threat of lawsuits; fighting these claims is often very expensive. Many states have enacted statutes as a result of courts' inconsistent decisions. She cited some examples of other states' legislation and referred to the Alaska Ski Safety Act.

Number 310

MS. SYLVESTER noted that HB 319 seeks to decrease the uncertainties regarding the legal responsibilities for injury or loss. The bill establishes the responsibility for commercial recreation businesses and says if that responsibility is ignored, it is a case of negligence. The bill sets out the responsibilities of participants as well. Ms. Sylvester explained that commercial businesses are still responsible for providing safety standards, training, and competent personnel. The bill adds the presumption that a participant accepts the inherent risks of a commercial recreation activity, and as such, has played a part in any damages resulting from that inherent risk.

MS. SYLVESTER reported that the addition to the bill addresses nonpaying aircraft and watercraft passengers: it gives certainty to owners of boats and planes who take guests out on the water or in the air, and it shields owners or operator from liability for the inherent risk. The bill defines a clear level

of negligence. She said the intent is to provide clarity and set out the responsibilities of aircraft and watercraft owners. It would protect the family of a pilot from losses due to anything other than gross negligence.

REPRESENTATIVE KOTT mentioned that even golf carries inherent risks.

Number 347

REPRESENTATIVE HALCRO raised the scenario of a charter plane going to a fishing lodge where the plane trip is part of the price of staying at the lodge. He asked: If an accident were to occur, would the pilot and the person providing the air service be shielded?

MS. SYLVESTER answered that if a person is going to a lodge with someone who has a plane, the person going along is the guest. If that person has a financial interest in the fishing lodge, then the person is an agent of the lodge and is not a guest. She said the section [she was recently referring to] is for nonpaying guests with no financial interests.

Number 365

CHAIR MURKOWSKI followed up by giving the example of charter operations near Lake Hood. She said the flight is not paid for, since it is part of the price of staying at the lodge. She asked if a person on the plane would be construed as being a guest.

REPRESENTATIVE KOTT responded that when a person flies out to a lodge, the lodge has entered into a contract; the flight cost is built into the cost of the lodge. He said he didn't believe a person in that situation should be classified as a guest.

MS. SYLVESTER added that the pilot is paid by the lodge, not a guest.

Number 389

REPRESENTATIVE ROKEBERG referred to page 3, line 26, and said compensation requires being paid a "substantial" amount of money, not a "token payment." He suggested the meanings of those words might need to be considered.

MS. SYLVESTER said that was exactly the intent. She said the word "substantial" was added so that chipping in for gas would not be precluded.

Number 412

REPRESENTATIVE MEYER asked if the bill would apply to [municipal entities like city-owned skateboard parks].

MS. SYLVESTER said no, it would only apply to commercial entities. Other statutes apply to skateboard parks and municipal immunities.

REPRESENTATIVE MEYER asked if it would apply to the state fair and to amusement parks.

Number 429

MS. SYLVESTER said it would apply to "outdoor recreational activity," and it seems to fit. She added that it doesn't apply to indoor recreational activities.

REPRESENTATIVE MEYER revisited Representative Kott's reference to golfing and asked if the owner of a golf course has a responsibility to warn players of hazards. He also asked what has been changed to make it acceptable [to the Senate.]

REPRESENTATIVE KOTT said he wasn't sure if anything had been change that would make the bill acceptable to the Senate, but added that Section 3 is what is new to the bill and may be more palatable for the other body.

Number 451

CHAIR MURKOWSKI asked why bowling and other indoor sports weren't included in the legislation.

MS. SYLVESTER answered that it was at the request of the outdoor recreational industry. There are other aspects of the statutes that discuss the risks and responsibilities of bowling. She said the attempt to keep the bill concerned with outdoor recreation was tied to unimproved land and the uncontrollable factors that take place on unimproved land.

Number 465

REPRESENTATIVE HAYES asked what the argument had been against the legislation in the past.

MS. SYLVESTER responded that there were arguments from trial lawyers that it is already in statute and therefore isn't needed. There is confusion from the courts, she said, and the bill would clarify the issue. She said there has been a general nervousness of trial lawyers to limit their levels of recovery.

Number 476

REPRESENTATIVE KOTT concurred, adding that there was also an argument that individuals who participate in commercial recreational outdoor activities really thought they didn't need to assume any responsibility for their actions.

Number 481

REPRESENTATIVE HALCRO said there is no mention of a need for a waiver that would specify the risks and require a signature of an acceptance of risk. He asked if there was any consideration of a provision to deal with that.

MS. SYLVESTER replied that there are various ways of communicating the levels of risk. She said an additional level of security could be given [by a signed waiver] on file. Many businesses don't have such waivers because of the large volume of traffic. She said often signage is sufficient to warn large groups about inherent risks.

Number 508

REPRESENTATIVE HALCRO said it isn't the prudent people who end up in court with multimillion-dollar settlements. He suggested there should be a standard in place whereby risks are stated and the customer signs a paper. Representative Halcro said he would support a requirement for a waiver stating inherent risks.

MS. SYLVESTER said in the case of particularly dangerous operations, operators usually want something in writing. She added that in the case of a salmon bake, it would seem silly.

Number 527

CHAIR MURKOWSKI pointed out that the bill provides that the participant's responsibility is to learn about and expressly

accept the risk of the activity. She asked how "express acceptance" should be defined.

Number 534

REPRESENTATIVE CRAWFORD asked Ms. Sylvester: In the case of a roller coaster operation that warned of inherent risk, if metal fatigue were to result in an accident, would the operator be off the hook because inherent risk was warned of?

MS. SYLVESTER responded that flying off a roller coaster because of metal fatigue was not a foreseeable, normal event. An attorney would be employed to find the negligence in that event. Operators are required to maintain equipment, and they wouldn't be covered by the bill. She said metal fatigue is not an acceptable inherent risk.

REPRESENTATIVE CRAWFORD suggested it might be hard to prove.

MS. SYLVESTER disagreed, saying that metal fatigue can be proven by a laboratory test.

CHAIR MURKOWSKI asked about a salmon bake scenario in which a 75-year-old person gets off a bus and trips on a rock. She asked if this could be defined as a commercial, recreational activity and, therefore, the person assumed the risk of walking across a parking lot. If that were the assumption, what would keep the statute from being used for anything that occurs outside? She expressed concern about unintended consequences.

Number 571

REPRESENTATIVE KOTT agreed that Chair Murkowski had a point. He referred to page 3, lines 19-21, saying the definition of "recreational activity" is those activities undertaken outdoors for the purpose of exercise, education, relaxation, pleasure, sport, or as a hobby. He expressed his belief that a salmon bake doesn't fall under that definition unless, as a part of it, there is an excursion paid for in the price of the salmon bake that involves a walk through the park.

Number 582

MS. SYLVESTER stressed, "It's the inherent risk of the event." She said a salmon bake is in a "nature setting," and part of that setting is unpaved, uneven ground. If one were to trip and

fall on the uneven ground, it would be a result of the inherent risk of an outdoor event.

TAPE 02-33, SIDE B  
Number 588

CHAIR MURKOWSKI remarked that there could be interesting complications.

Number 582

BRUCE BARKER, Vice President and General Manager, Mount Roberts Tramway, testified before the committee. He stated his support of HB 319, which he said does an excellent job of identifying the responsibilities of operators and participants. He claimed he would like the bill to reduce the number of "ridiculous suits" where someone falls and twists an ankle and it is the fault of his business. He referred to Representative Crawford's question about mechanical failure and said it is always the responsibility of the operator. He added, "Whenever something breaks, you pay."

CHAIR MURKOWSKI pointed out that skiers are provided with a great many warnings on their ski tickets. She asked if tram tickets come with any warnings.

MR. BARKER replied that there is a disclaimer on the back of the tram tickets.

CHAIR MURKOWSKI asked if there is any warning about walking off the trail on the mountainside.

Number 550

MR. BARKER offered that there are so many things a person could do, his company cannot warn against every potential hazard. He showed the committee a sign used early in the season that warns of avalanche danger. He said it is hard to warn people of all the inherent hazards on the mountain. He expressed his support of the bill because it will prevent many frivolous lawsuits.

Number 534

REPRESENTATIVE HAYES asked: If a person is skiing down a trail and hits a crater and then falls and breaks a leg, would the bill lay the liability on the person skiing?

MR. BARKER said he doesn't believe the bill has anything to do with skiing. He pointed out that a separate statute addresses the inherent risks of skiing.

Number 522

CHAIR MURKOWSKI raised the avalanche issue, asking Mr. Barker if his company would take an extra step to tell people where they should not go. She said a reservation could be held about HB 319 that companies might not "go that extra step" to ensure participant safety; people would be expected to proceed at their own risk because businesses aren't responsible for inherent risks. She asked if his company would close off areas due to avalanche danger.

MR. BARKER replied that it is illegal in most states to deny access to public land. He gave an example from Jackson Hole, Wyoming, where a ski area and the [U.S.] Forest Service were sued for denying skiers access to public land. He said he couldn't prohibit people from accessing [the top of Mount Roberts] but could warn them of the inherent dangers.

Number 498

REPRESENTATIVE KOTT asked what the impact would be on his business if signing a waiver were required. And if a waiver were signed and the signer were killed in an accident because of personal negligence, could the family of the signer sue the operator because [the family] didn't sign the waiver?

MR. BARKER responded that it would be difficult to get 200,000 people to sign a waiver, and that a signed waiver "doesn't make much difference."

Number 467

REPRESENTATIVE HALCRO asked what the inherent risks would be for taking a trip on the Mount Roberts Tramway. He said putting one foot in front of the other is the responsibility of the participant, not the operator. He said the bill seems to be painted with a broad brush than its previous manifestations.

MR. BARKER responded by saying people are testing the waters when an incident happens.

REPRESENTATIVE KOTT said the first half of the bill was almost identical to what it was in the previous two years. He offered

his belief that there are inherent risks in riding the tram, including high winds and earthquakes. He asked Mr. Barker what the company's reaction is when people are injured while on the trails at the top of the [Mount Roberts] tram, and those people come forward with claims.

MR. BARKER answered that much care and time are given to training personnel in the area of risk management. He said risk management is the key - "making them feel that you really care about what their problem is."

Number 413

REPRESENTATIVE KOTT asked Mr. Barker what his experience has been with people who don't have a command of the English language. He asked if those people get the same protection.

MR. BARKER said efforts are made to use an interpreter.

Number 394

MIKE WINDRED, Director of Operations, Alaska Travel Adventures, testified before the committee. He stated his support for HB 319, adding that he is president of the Juneau chapter of the Alaska Travel Industry Association, which also supports the bill. Mr. Windred said his synopsis of the bill is that it would pass a portion of the burden for participants to recreate within their own physical means and to be responsible for their actions. It would also outline the responsibilities of the commercial operators, while not absolving them of the duty to operate in a prudent, safe manner. The bill has effects for both operators and participants if they don't make prudent decisions and [take prudent] actions.

MR. WINDRED said from the testimony in the previous years, he found common issues such as defining inherent risk for the broad range of activities. He called the current definition the proper one: inherent risks are, or should be, apparent to an ordinarily prudent person. Risks that fall into a gray area ultimately might be decided by a judge or jury, and he said legislation cannot cover all contingencies. He said the bulk of claims are obvious ones and will be covered by the bill.

MR. WINDRED told members that negligence on the part of the operator is another common issue he had noticed. This bill has added the "Effects of violations clause" [AS 05.50.060], which specifies that an operator must maintain equipment, inform

customers, train staff, and operate in a safe and competent manner - or face civil liabilities.

MR. WINDRED offered that another common thread he has found is defining "outdoor" versus "indoor" activities. He said most outdoor activities deal with unimproved areas that preclude the control of all factors present. Indoor activities are in a more controlled environment. He added that participants often don't want a completely controlled environment for their "Alaskan experience."

Number 327

MR. WINDRED told the committee the bulk of the claims fit very well within the legislation. Many people are looking to make a little money or to pay for part of their vacation as a result of poor choices on their own part. He said this drives up out-of-pocket expenses as well as insurance rates. Mr. Windred told the committee that presently, operators are bearing the full burden of clients' poor choices and actions. He gave several examples of incidents in which people made poor decisions and came to his company for money.

MR. WINDRED stated that for most of his company's "riskier adventures," signed waivers are required for participation. He said salmon bakes and gold panning would not require a waiver. He characterized those activities' risks as being mostly inherent tripping risks. Requiring waivers for those types of activities would exclude them from this legislation.

Number 254

REPRESENTATIVE ROKEBERG asked Mr. Windred if his company was able to affordably insure for all the risks his company deals with.

MR. WINDRED said the risks are insurable but the insurance is expensive. He told the committee his company's current liability insurance costs approximately \$250,000.

REPRESENTATIVE ROKEBERG asked how much of a gross cost that is for his company.

MR. WINDRED estimated it to be about 5 percent of gross receipts. Most claims aren't large enough to fit within the deductible and are taken care of directly. He said the bill

would help with those small expenses because the larger claims will end up in court.

REPRESENTATIVE ROKEBERG asked if his company had been to court in recent years.

MR. WINDRED said his company had not been in court recently, but had in the past.

Number 226

REPRESENTATIVE ROKEBERG raised a concern among trial lawyers that the bill would remove the public's rights to file suit. He stated his wish to weigh the balance between impact on business and the rare case of someone's being denied the right to sue.

MR. WINDRED replied that as an operator and participant in commercial recreation in other areas, if he were involved in a situation wherein he felt he'd been injured [due to] the fault of an operator, this type of legislation wouldn't stop him from hiring an attorney and seeking damages. The bill takes smaller claims and makes people more accountable for their actions, but doesn't harm the real issues out there.

REPRESENTATIVE ROKEBERG made reference to [President George W. Bush's] statement that Americans' "aptitude for lawsuits" is affecting the nation's economic recovery from recessions.

Number 183

CHAIR MURKOWSKI asked Mr. Windred how his company deals with non-English-speaking participants.

MR. WINDRED answered that in the case of whitewater rafting, guides can move people with a language barrier to the safest part of a raft. If a person cannot be made safer and an interpreter cannot be had, however, the operator would be responsible for deciding whether to allow that person to participate.

Number 145

AL CLOUGH testified before the committee. A private aircraft owner and operator, he told the committee he often flies friends and acquaintances around the area, but isn't allowed to receive compensation, by federal regulation. He said the bill gives him a degree of comfort when taking guests flying or boating. Mr.

Clough expressed support for the bill, which he characterized as a "good thing."

CHAIR MURKOWSKI inquired if insurance companies ask pilots whether or not guests will be flown, and if rates vary for those who do fly guests.

Number 078

MR. CLOUGH said he doesn't carry insurance on his aircraft. Most pilots find insurance prohibitively expensive. Rather, he tells people his qualifications and that he is uninsured.

REPRESENTATIVE ROKEBERG requested an estimate of insurance rates for aircraft.

MR. CLOUGH gave the example of his cousin's \$100,000 airplane, which costs over \$10,000 per year to insure. He said that when someone is flying from airport to airport, insurance can be reasonable in price, but as soon as the plane lands on water or unimproved landing areas, the insurance is no longer in place.

TAPE 02-34, SIDE A  
Number 001

JOHN GEORGE, Lobbyist for National Association of Independent Insurers, testified before the committee. He characterized aircraft insurance as very different from auto or homeowner's insurance because there are several types. There is insurance for the airplane itself, liability, and "seat liability" for coverage of passengers. He told the committee the bill won't absolve the owner of damage done to a third party; it simply protects the owner against those riding in the airplane or boat. He said insurance for airplanes that land on mediums other than at airports will be extremely expensive.

Number 076

REPRESENTATIVE ROKEBERG asked about boat insurance.

MR. GEORGE said it depends on the boat and the desired level of coverage.

REPRESENTATIVE ROKEBERG asked if the homeowner's insurance on a 25-foot boat would cover passenger liability.

MR. GEORGE answered that he didn't believe so. He said he thought only very small boats would be covered under homeowner's insurance.

REPRESENTATIVE HALCRO offered that he thought boats under 16 feet were covered by homeowner's insurance.

Number 115

REPRESENTATIVE ROKEBERG asked about "umbrella liability" coverage.

MR. GEORGE said it has to do with underinsured motorist coverage.

REPRESENTATIVE ROKEBERG asked if the bill would be helpful to the average Alaskan involved in recreational flying or boating.

MR. GEORGE answered that it would be helpful. He likened the bill to a "Good Samaritan" law and said it allows people to do people a favor and not be held liable for guests' mistakes.

REPRESENTATIVE ROKEBERG noted that [AS 05.25.040] says "simple negligence" provides for liability, but that the bill specifies that liability would [arise] from "gross negligence."

Number 183

REPRESENTATIVE HALCRO expressed support for the bill but said it was incredibly broad. People need to take responsibility, he offered, and business does not need to pay the price for those who don't pay attention or who decide to do their own thing. Representative Halcro said if the bill's intent is to cover low-risk activities like salmon bakes, it doesn't go far enough.

Number 232

CHAIR MURKOWSKI cautioned that unintended consequences could come from the bill. It allows individuals or businesses to venture into areas of immunity that might not be prudent to allow. However, she posed the question of how to let companies do what they do; she gave glacier trekking as an example with all of its inherent dangers. She said she didn't know how to fix it.

Number 259

REPRESENTATIVE KOTT said some immunity needs to be provided for these companies, especially from smaller claims like [those for] sprained ankles. Negligence of the operator is not going to be removed, but it will be reduced based on the amount of negligence on the part of the participant. He called it a balance, and said the years of work on the bill have led to a result that is "as close as we can get."

Number 281

REPRESENTATIVE ROKEBERG asked about the balance between the right to sue and protection of business from frivolous lawsuit.

REPRESENTATIVE KOTT agreed it is a big problem.

REPRESENTATIVE ROKEBERG expressed concern about a reference to salmon bakes in the bill.

REPRESENTATIVE KOTT replied that it isn't his intent to include a salmon bake unless there is some sort of trail walking as part of the recreational activity.

Number 317

CHAIR MURKOWSKI asked how animals would be covered in the bill. For example, would a horse-riding company need to warn of a particularly mean animal?

REPRESENTATIVE KOTT put forward that an activity in bear country would require a warning of that danger.

Number 346

REPRESENTATIVE HAYES asked about other states' legislation. He said it might help in tightening the language.

REPRESENTATIVE KOTT said other states' laws had been looked at, but Alaska is different from most states. He said there is no model legislation.

Number 370

REPRESENTATIVE HALCRO remarked that no matter how many ways a situation is safeguarded, it is impossible to eliminate all possible risks.

CHAIR MURKOWSKI suggested the bill is trying to legislate common sense and personal responsibility.

REPRESENTATIVE ROKEBERG conveyed a personal example of tripping on uneven ground and sustaining an injury. He asked rhetorically whether uneven ground is a reason to sue. He said the elderly often end up with tripping injuries.

Number 416

REPRESENTATIVE MEYER moved to report CSHB 319, version 22-LS1260\C, Ford, 1/31/02, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 319(L&C) was moved out of the House Labor and Commerce Standing Committee.

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:50 p.m.