

**ALASKA STATE LEGISLATURE
CONFERENCE COMMITTEE ON HB 260**

June 9, 2001
9:05 a.m.

HOUSE MEMBERS PRESENT

Representative Eldon Mulder, Chair
Representative Bill Hudson
Representative Beth Kerttula

HOUSE MEMBERS ABSENT

All House members present

SENATE MEMBERS PRESENT

Senator Loren Leman
Senator Rick Halford
Senator Johnny Ellis

SENATE MEMBERS ABSENT

All Senate members present

COMMITTEE CALENDAR

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."

- MOVED CCS HB 260 OUT OF COMMITTEE

PREVIOUS ACTION

BILL: HB 260

SHORT TITLE:COMMER.PASSENGER VESSEL REGULATION & FEES

SPONSOR(S): FINANCE

Jrn-Date	Jrn-Page		Action
04/26/01	1238	(H)	READ THE FIRST TIME - REFERRALS
04/26/01	1238	(H)	FIN
04/26/01	1239	(H)	REFERRAL TO TRA, RES OVERRULED
04/26/01	1239	(H)	SUSTAIN RULING OF CHAIR PSD Y27 N11 E2
04/26/01	1254	(H)	ADD TRA, RES REFERRALS FLD 11 N26 E2 A1
04/26/01		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/26/01		(H)	<Bill Postponed to 4/27>
04/26/01		(H)	MINUTE(FIN)
04/27/01		(H)	FIN AT 8:30 AM HOUSE FINANCE 519
04/27/01		(H)	Heard & Held
04/27/01		(H)	FIN AT 1:30 PM HOUSE FINANCE 519
04/27/01		(H)	MINUTE(FIN)
04/27/01		(H)	MINUTE(FIN)
04/27/01		(H)	MINUTE(FIN)
04/28/01		(H)	FIN AT 8:30 AM HOUSE FINANCE 519
04/28/01		(H)	Heard & Held MINUTE (FIN)
04/28/01		(H)	FIN AT 4:45 PM HOUSE FINANCE 519
04/28/01		(H)	Moved CSHB 260(FIN) Out of Committee
04/28/01		(H)	MINUTE(FIN)
04/29/01	1356	(H)	FIN RPT CS(FIN) NT 5DP 2NR
04/29/01	1358	(H)	DP: WHITAKER, HARRIS, FOSTER, MULDER,

04/29/01	1358	(H)	WILLIAMS; NR: BUNDE, HUDSON
04/29/01	1358	(H)	FN1: (DEC)
04/29/01	1381	(H)	RULES TO CALENDAR 4/29/01
04/29/01	1381	(H)	MOVED TO BOTTOM OF CALENDAR
04/29/01	1386	(H)	RULES TO CALENDAR 4/30/01
04/30/01	1415	(H)	RULES TO CALENDAR 5/01/01
05/01/01	1437	(H)	MOVED TO BOTTOM OF CALENDAR
05/01/01	1446	(H)	MOVED TO BOTTOM OF DAILY ORDER OF BUS.
05/01/01	1451	(H)	READ THE SECOND TIME
05/01/01	1451	(H)	FIN CS ADOPTED UNAN CONSENT
05/01/01	1452	(H)	AM NO 1 ADOPTED UNAN CONSENT
05/01/01	1452	(H)	...CHANGES TITLE OF LEGISLATION
05/01/01	1471	(H)	ADVANCED TO THIRD READING UNAN CONSENT
05/01/01	1471	(H)	READ THE THIRD TIME CSHB 260(FIN)
05/01/01	1471	(H)	PASSED Y35 N3 E2
05/01/01	1471	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
05/01/01	1472	(H)	TRANSMITTED TO (S)
05/01/01	1472	(H)	VERSION: CSHB 260(FIN) AM
05/02/01	1426	(S)	READ THE FIRST TIME-HELD ON SECY'S DESK
05/03/01	1474	(S)	TAKEN UP AND REFERRED
05/03/01	1474	(S)	TRA, RES, FIN
05/05/01		(S)	TRA AT 0:00 AM BUTROVICH 205
05/05/01		(S)	-- Meeting Postponed to 5/6/01 --
05/06/01		(S)	TRA AT 9:00 AM BUTROVICH 205
05/06/01		(S)	Heard & Held MINUTE(TRA)
06/07/01	1766	(S)	FIN WAIVED PUB HEARING NOTICE, RULE 23
06/07/01	1777	(S)	TRA RPT SCS 1DP 1DNP 3NR NEW TITLE
06/07/01	1778	(S)	TITLE CHANGE AUTHORIZED BY SCR 18
06/07/01	1779	(S)	DP: COWDERY; DNP: ELTON;
06/07/01	1779	(S)	NR: WILKEN, TAYLOR, WARD
06/07/01	1779	(S)	FN2: (DEC)
06/07/01	1779	(S)	FN3: (DOT)
06/07/01	1779	(S)	FN4: (LAW)
06/07/01	1780	(S)	RES REFERRAL WAIVED
06/07/01		(S)	FIN AT 0:00 AM SENATE FINANCE 532

06/07/01		(S)	Uniform Rule 23 Waived
06/07/01		(S)	RES AT 3:30 PM BUTROVICH 205
06/07/01		(S)	TRA AT 2:00 PM BUTROVICH 205
06/07/01		(S)	Moved SCS (TRA) Out of Committee MINUTE(TRA)
06/08/01	1786	(S)	FIN RPT SCS 3DP 5NR NEW TITLE
06/08/01	1786	(S)	TITLE CHANGE AUTHORIZED BY SCR 18
06/08/01	1786	(S)	DP: DONLEY, WILKEN, LEMAN;
06/08/01	1786	(S)	NR: KELLY, AUSTERMAN, HOFFMAN,
06/08/01	1786	(S)	OLSON, WARD
06/08/01	1786	(S)	FN5: (DEC)
06/08/01	1786	(S)	FN6: (DOT)
06/08/01	1786	(S)	FN7: (LAW)
06/08/01	1786	(S)	RULES TO CALENDAR 4OR 6/8/01
06/08/01	1787	(S)	READ THE SECOND TIME
06/08/01	1788	(S)	FAILED TO ADOPT FIN SCS Y7 N12 E1
06/08/01	1788	(S)	AM NO 1 FAILED Y9 N10 E1
06/08/01	1799	(S)	AM NO 2 FAILED Y8 N11 E1
06/08/01	1800	(S)	MTN TO RESCIND ACTION FLG FIN SCS
06/08/01	1800	(S)	MTN TO RESCIND WITHDRAWN UNAN CONSENT
06/08/01	1800	(S)	AM NO 3 ADOPTED UNAN CONSENT
06/08/01	1810	(S)	...CHANGES TITLE OF LEGISLATION
06/08/01	1810	(S)	ADVANCED TO THIRD READING UNAN CONSENT
06/08/01	1810	(S)	READ THE THIRD TIME CSHB 260(FIN) AM S
06/08/01	1810	(S)	RETURN 2ND/RESCIND ACTION AM NO 3 U/C
06/08/01	1810	(S)	RESCIND ACTION FAILED Y7 N12 E1
06/08/01	1810	(S)	AUTOMATICALLY IN THIRD READING
06/08/01	1811	(S)	PASSED Y15 N4 E1
06/08/01	1811	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
06/08/01	1811	(S)	LEMAN NOTICE OF RECONSIDERATION
06/08/01	1811	(S)	RECON TAKEN UP SAME DAY UNAN CONSENT
06/08/01	1812	(S)	PASSED ON RECONSIDERATION Y16

			N3 E1
06/08/01	1812	(S)	EFFECTIVE DATE(S) SAME AS PASSAGE
06/08/01	1821	(S)	TRANSMITTED TO (H) AS AMENDED
06/08/01	1821	(S)	VERSION: CSHB 260(FIN) AM S
06/08/01	1832	(H)	HELD UNDER UNFINISHED BUSINESS
06/08/01	1836	(H)	TAKE UP BILL Y24 N11 E5
06/08/01	1836	(H)	FAILED CONCUR (S) AM Y11 N24 E5
06/08/01	1837	(H)	CONFERENCE COMMITTEE APPOINTED
06/08/01	1837	(H)	*MULDER, HUDSON, KERTTULA
06/08/01	1818	(S)	FAILED RECEDE (S) AM Y5 N11 E1 A3
06/08/01	1820	(S)	CONFERENCE COMMITTEE APPOINTED
06/08/01	1820	(S)	LEMAN, ELLIS, HALFORD
06/08/01	1820	(S)	LIMITED POWERS FREE CONFERENCE GRANTED
06/08/01		(S)	FIN AT 10:00 AM SENATE FINANCE 532
06/08/01		(S)	RLS AT 2:10 PM FAHRENKAMP 203
06/09/01	1842	(H)	LIMITED POWERS FREE CONFERENCE GRANTED
06/09/01	1844	(H)	CC REPORT READ
06/09/01	1845	(H)	CC RPT ADOPTED Y29 N5 E6 CCS HB 260
06/09/01	1847	(H)	EFFECTIVE DATE(S) SAME AS PASSAGE
06/09/01	1847	(H)	ADOPTED LETTER OF INTENT WITH CC REPORT
06/09/01	1828	(S)	ADOPTED LETTER OF INTENT WITH CC REPORT
06/09/01	1830	(S)	CC REPORT ADOPTED Y13 N6 E1 CCS HB 260
06/09/01	1831	(S)	EFFECTIVE DATE(S) ADOPTED Y19 N- E1
06/09/01	1848	(H)	AWAITING TRANSMITTAL TO GOVERNOR
06/09/01		(H)	260 AT 8:00 AM BUTROVICH 205
06/09/01		(S)	260 AT 8:00 AM BUTROVICH 205

WITNESS REGISTER

STEVE TOROK
Environmental Protection Agency

410 Willoughby Avenue, Suite 100
Juneau, Alaska 99801
POSITION STATEMENT: Answered questions.

SUSAN BURKE, Attorney
Gross & Burke
424 N. Franklin Street
Juneau, Alaska 99801
POSITION STATEMENT: Spoke as the representative of the North
West CruiseShip Association.

AL PARRISH, Vice President
Holland America
300 Elliott Avenue West
Seattle, Washington 98119
POSITION STATEMENT: Answered questions.

ACTION NARRATIVE

TAPE 01-1, SIDE A

Number 001

CHAIR ELDON MULDER called the Conference Committee on HB 260 to order at 9:05 a.m. Representatives Mulder, Hudson, and Kerttula and Senators Leman, Halford, and Ellis were present at the call to order. Representatives Porter, Harris, Berkowitz, and Croft and Senators Austerman and Elton were also in attendance.

HB 260-COMMER.PASSENGER VESSEL REGULATION & FEES

REPRESENTATIVE MULDER announced that the only item before the Conference Committee on HB 260 would be 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."

Number 0051

SENATOR LEMAN moved that the committee request limited powers of free conference on the specific point of the definition and replacement of the term "other waste".

SENATOR HALFORD noted that the Senate had already granted limited powers of free conference. This action is not intended to set any precedent, but it was felt that there had been "obvious notice" with this special session.

CHAIR MULDER asked if there was any objection to the motion. There being no objection, the committee requested limited powers of free conference. The report was signed and forwarded to the presiding officer. Chair Mulder asked if there were any amendments.

Number 0122

SENATOR LEMAN moved that the committee adopt Amendment 1, which reads as follows:

Change every reference to "other waste" to "other wastewater".

Under definitions:

"other wastewater" means gray water or sewage that is stored in or transferred to a ballast tank or other holding area on the vessel that may not be customarily used for storing gray water or sewage.

SENATOR LEMAN said that he believes there are about 15 locations where "other waste" will be changed to "other wastewater". However, Legislative Legal Services is doing a final check on that. He noted that the definition of "other wastewater" would be inserted on page 12, line 20, and the remaining definitions would be renumbered.

Number 0185

SENATOR ELLIS objected.

REPRESENTATIVE KERTTULA noted her appreciation of the effort, specifically in regard to the ballast tanks. However, she wasn't sure that this [language] would provide more authority than the original legislation would.

REPRESENTATIVE KERTTULA turned to the Cruise Industry Waste Management Practices and Procedures that defines what is being done by the industry itself. Representative Kerttula felt that it might be best to use broader language than that presented in order to gain knowledge about photo processing and dry cleaning waste fluids, pharmaceuticals, and other medical wastes. The cruise ship industry says that it's not dumping such, and therefore there should be zero reports. She said that she never intended to create a laundry list. However, it seems easy enough that they could file a zero report if nothing is being discharged into the marine waters of Alaska. Therefore, she felt that this effort doesn't reach far enough.

CHAIR MULDER asked if it is already illegal to dump items such as photo processing and X-ray development.

REPRESENTATIVE KERTTULA related her understanding that it is illegal; however, there wouldn't be any reports regarding that because the ships are considered conditionally exempt small generators. Therefore, there aren't any reports that the state would receive.

Number 0381

SENATOR LEMAN explained that the wastewater streams of photo processing, dry cleaning, printing, and pharmaceutical wastes and other medical wastes were considered. However, upon review of the records it was discovered that none of these enter the wastewater streams. All of the aforementioned wastes are illegal to dump in the wastewater streams. Furthermore, these are covered under federal law, the Resource Conservation and Recovery Act (RCRA). Although these vessels are conditionally exempt small generators and thus are not required to file manifest information as do large quantity generators, they are required to maintain records. Those records are available upon request [during] inspections of the vessels. Therefore, Senator Leman said that he is convinced that this matter is adequately covered and doesn't need to be addressed again.

REPRESENTATIVE KERTTULA commented that this has been a difficult area with which to deal. Although she doesn't believe that anyone has any interest in intentionally discharging the aforementioned wastes, she believes that the testing last summer illustrates that there are things that we don't know about.

REPRESENTATIVE KERTTULA turned to a Freedom Of Information Act request that one of her friends had made to the Environmental Protection Agency (EPA) regarding the records [available] on this. This request found that EPA doesn't have any information on this to be able to provide the state with any of this information. In fact, RCRA identification numbers are only issued to U.S.-owned vessels and thus there is the problem of not being able to get any information on this. Representative Kerttula identified this as a right-to-know issue, which is the legislation she and Senator Halford produced. If the industry is concerned with broadness, then the language could be changed to "every port." She reiterated that it would be a zero report if there is no discharge into the marine waters. The [proposed list] is a much lesser list than that included in HB 22 as it passed the House Transportation Standing Committee and okayed by the cruise industry.

Number 0647

STEVE TOROK, Environmental Protection Agency, agreed that it is illegal to discharge hazardous waste and the penalties for such are severe.

SENATOR HALFORD pointed out that Amendment 1 could be adopted first and then discussion could ensue. Although the amendment may not be as expansive as some would like, it may be the best that can be done.

A roll call vote was taken. Representatives Hudson and Mulder and Senators Leman and Halford voted for the adoption of Amendment 1. Representative Kerttula and Senator Ellis voted against the adoption of Amendment 1. Therefore, Amendment 1 was adopted by a vote of 4-2.

Number 0796

REPRESENTATIVE KERTTULA moved that the [committee adopt a conceptual Amendment 2] that would include a reporting requirement to the state of photo processing, dry cleaning and printing waste fluids, pharmaceuticals, and other wastes that were discharged into the waters of the state. In response to

Representative Hudson, Representative Kerttula explained that the [current language] speaks to the definition of wastewater. However, she felt that a reporting requirement is important and thus it would be rewritten to say "reporting any discharges into the marine waters of the state: photo processing, dry cleaning and printing waste fluids, pharmaceuticals, and other medical wastes." Therefore, if there were no discharges, then there would be no reporting.

REPRESENTATIVE MULDER objected to Amendment 2 because he believes that these reports are already covered under RCRA and are recorded and available upon request.

Number 0907

REPRESENTATIVE HUDSON referred to page 8, subsection (d) and asked if that basically requires the submission of that report within 21 days. He noted that there has been discussion that there is documentation of when vessels are received and where they go, even when the vessel is considered a small generator. The record of transfer is maintained and is available to the state within 21 days. He asked if he was correct.

REPRESENTATIVE KERTTULA explained that the record-keeping requirements in the bill only address sewage and graywater. She pointed out that as the bill moved through the process some of the reporting requirements that were in the original bill were dropped. Furthermore, there is no manifest because of the conditionally small exempt generators.

MR. TOROK agreed. He confirmed that conditionally exempt small generators aren't required to have an EPA identification number. Furthermore, these are foreign-flagged vessels and thus wouldn't be required to have an EPA identification number. Therefore, EPA doesn't have any records regarding the amount of waste being generated or the fate of that waste.

Number 1026

SENATOR LEMAN announced that he could support a reporting requirement [to the state] within 21 days if these [aforementioned specific wastes] have been discharged into a wastewater stream. He asked if that is what Representative Kerttula is conceptually asking for with Amendment 2.

REPRESENTATIVE KERTTULA answered in the affirmative and reiterated that the reporting list has been reduced from what

was listed in the original reporting bill that was supported by the cruise ship industry.

SENATOR LEMAN related his understanding that Representative Kerttula is saying that if the vessel owner/operator violates the law and discharges in the wastewater stream, they must provide a record of that to the Department of Environmental Conservation (DEC) as well as to EPA.

REPRESENTATIVE KERTTULA pointed out that the record provided to the EPA could be provided to DEC as well.

SENATOR LEMAN inquired as to the reporting requirement to the EPA if there is a violation of RCRA.

MR. TOROK answered that the reporting and illegal discharge would go through the U.S. Coast Guard, but he didn't know the timing requirements for such.

Number 1163

SUSAN BURKE, Attorney, Gross & Burke, informed the committee that she is representing the North West CruiseShip Association in connection with this legislation. Ms. Burke explained that a four-year request to EPA will result in nothing with respect to these reports from the cruise lines because the cruise lines don't off-load any hazardous waste in the U.S. All hazardous waste is off-loaded in Canada. She pointed out that the reporting requirements under [Section 46.03].475(d) of CSHB 260(FIN) am S specifies that if the owner or operator of the vessel is required by the laws of the U.S. or Canada to report these things as is the case, then the reports that are provided to the Canadian national government or provincial government are provided to DEC within 21 days per this legislation.

Number 1225

AL PARRISH, Vice President, Holland America, explained that "we" report and track all hazardous waste on the ships as required by RCRA in the U.S. and the companion [rules] in Canada. Cruise ships are also required to manifest [the hazardous waste off-loaded in Canada]. That manifest is required and available to the State of Alaska per HB 260. He said, "We have no contention, in reference to continuing to do that. This is duplicative language here."

REPRESENTATIVE KERTTULA remarked that there is no need for duplicity, if that is the case. She said that if [hazardous waste] was discharged into the marine waters of the state, there would be a direct report to the state. She didn't believe that to be too much of a burden on the cruise ship industry, and furthermore it is simply a protective measure.

MS. BURKE said that she believes Representative Kerttula's concern is covered in the reporting requirements in [AS] 46.03.475(a) of [CSHB 260(FIN) am S], which says: "An owner or operator of a commercial passenger vessel who becomes aware of a discharge in violation of AS 46.03.463 shall immediately report that discharge to the department." Therefore, the marine waters of Alaska would be covered under that language.

REPRESENTATIVE KERTTULA pointed out that [AS 46.03].463 addresses the discharge of sewage from the commercial passenger vessels. Representative Kerttula specified that Amendment 2 is merely an attempt at clarification. She reiterated her belief that this report would likely be a zero report.

MS. BURKE related her belief that anyone who discharges any of the [hazardous] materials that Representative Kerttula is addressing would be in violation of other sections [of Title 46]. Furthermore, there is a reporting requirement.

MR. PARRISH said that was his understanding as well. In response to Chair Mulder, Mr. Parrish agreed that is the practice accepted by the industry.

SENATOR LEMAN announced that with that explanation he is comfortable that this matter is adequately covered and that the state will receive the information and receive it in a timely fashion. Therefore, he didn't see the need to add the language proposed in Amendment 2.

Number 1422

A roll call vote was taken. Representative Kerttula and Senator Ellis voted for the adoption of Amendment 2. Representatives Hudson and Mulder, and Senators Lemman and Halford voted against the adoption of Amendment 2. Therefore, Amendment 2 failed to be adopted by a vote of 2-4.

Number 1434

REPRESENTATIVE KERTTULA requested that Ms. Burke and Mr. Parrish's statements on the record be included as a letter of intent. There was no objection to that request.

SENATOR ELLIS remarked that the adoption of Amendment 1 represents a large step backwards on the subject of other waste, which he viewed as good work in the Senate. Therefore, Senator Ellis expressed his disappointment that the language has been "watered down."

CHAIR MULDER noted his strong exception to Senator Ellis' assertion. He pointed out that he has been willing to work with anyone to address specific issues. The only issue that came up as possibly unclear was in reference to the ballast tanks or other holding facilities for the graywater or sewage. That was addressed [in Amendment 1] in regard to whether it was within regulatory control or not. He emphasized that any other issues that came up were clearly addressed in RCRA or other statutes. Therefore, he objected to the notion that this has been watered down.

Number 1556

SENATOR HALFORD related his belief that the definition [in Amendment 1] makes it clear that graywater or sewage, wherever its location on the ship, is accessible for testing. He said, "That's as far as we can get at this point. I think that covers a lot more than we had covered in the House Bill."

REPRESENTATIVE HUDSON agreed that Amendment 1 addresses the possible transfers of sewage into [ballast] tanks to avoid inspection. With regard to the RCRA requirements, he believes "we've done as much as we can do." If it is found that there are other areas [that need to be addressed], then the administration has the responsibility to propose regulations to correct such. However, Representative Hudson didn't believe that those [hazardous] materials are being transferred in Alaska or even into the waters of Alaska. Representative Hudson said, "I think that we've gone a great distance in trying to correct a problem that was brought to our attention."

REPRESENTATIVE KERTTULA thanked those involved. She related her belief that Amendment 1 is a step forward in solving the problem of holding sewage in ballast tanks. However, her greater concern regarding whether there is "anything else" has been addressed with the letter of intent. Although the letter of intent provides a step forward in the state knowing of mistakes

or unintentional discharges, it is not as far as she would like to see it. In conclusion, she said that although she can't support what is being done, she does applaud the efforts.

Number 1717

SENATOR LEMAN moved to [adopt] the Conference Committee Report that includes Amendment 1 out of committee.

SENATOR ELLIS objected.

A roll call vote was taken. Representatives Hudson and Mulder, and Senators Leman and Halford voted to adopt the Conference Committee Report. Representative Kerttula and Senator Ellis voted against the adoption of the Conference Committee Report. Therefore, the Conference Committee Report was approved by a vote of 4-2 and was forwarded to the respective bodies.

ADJOURNMENT

There being no further business before the committee, the meeting of the Conference Committee on HB 260 was adjourned at 9:39 a.m.