

ALASKA STATE LEGISLATURE  
**SENATE RESOURCES COMMITTEE**

April 29, 2002  
4:00 p.m.

**MEMBERS PRESENT**

Senator John Torgerson, Chair  
Senator Gary Wilken, Vice Chair  
Senator Rick Halford  
Senator Robin Taylor  
Senator Ben Stevens  
Senator Kim Elton

**MEMBERS ABSENT**

Senator Georgianna Lincoln

**COMMITTEE CALENDAR**

#HB302

CS FOR HOUSE BILL NO. 302(FIN)

"An Act establishing the Alaska Gas Corporation, a public corporation, and providing for its structure, management, responsibilities, and operation, and requiring the development of a project plan to evaluate whether construction and operation of a natural gas transmission pipeline project by the corporation is feasible."

SCHEDULED BUT NOT HEARD

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HOUSE BILL NO. 53

"An Act establishing the Alaska Seismic Hazards Safety Commission."

MOVED HB 53 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 382(FIN)

"An Act relating to the evaluation and cleanup of sites where certain controlled substances may have been manufactured or stored; and providing for an effective date."

HEARD AND HELD

CS FOR HOUSE BILL NO. 508(RLS)

"An Act relating to results of testing for paralytic shellfish poisoning and to participation of the Department of Environmental

Conservation in the development of operating plans of qualified regional dive fishery development associations."

MOVED CSHB 508(RLS) OUT OF COMMITTEE

CS FOR HOUSE JOINT RESOLUTION NO. 47(RLS)  
Urging the United States Environmental Protection Agency and the Alaska Department of Environmental Conservation to provide maximum possible flexibility in application of ultra low sulfur diesel fuel requirements to Alaska.

MOVED CSHJR 47(RLS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

HB 53 - See State Affairs minutes dated 4/18/02.

HB 382 - No previous action to consider.

HB 508 - No previous action to consider.

HJR 47 - No previous action to consider.

**WITNESS REGISTER**

Mr. Milton Wiltse, Director  
Division of Geological and Geophysical Surveys  
Department of Natural Resources  
794 University Ave Ste 200  
Fairbanks AK 99707-3645  
**POSITION STATEMENT:** Supported HB 53.

Mr. Gary Carver  
Kodiak AK  
**POSITION STATEMENT:** Supported HB 53.

Mr. Sheldon Winters  
State Farm Insurance  
300 Vintage Blvd.  
Juneau AK 99801  
**POSITION STATEMENT:** Supported HB 53.

Representative Gretchen Guess  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of HB 382.

Lieutenant Julia Grimes  
No address provided

**POSITION STATEMENT:** Commented on HB 382.

Ms. Mary Siroky, Legislative Liaison  
Department of Environmental Conservation  
410 Willoughby Ste 303  
Juneau AK 99801

**POSITION STATEMENT:** Supported on HB 382 and HB 508.

Ms. Julie Decker, Executive Director  
Southeast Alaska Dive Fisheries Association  
No Address Provided

**POSITION STATEMENT:** Commented on HB 508.

Ms. Donna Vukich  
No Address Provided

**POSITION STATEMENT:** Supported HJR 47.

Ms. Meera Kohler  
No Address Provided

**POSITION STATEMENT:** Supported HJR 47.

**ACTION NARRATIVE**

**TAPE 02-23, SIDE A**

Number 001  
#HB53

**HB 53-SEISMIC HAZARDS SAFETY COMMISSION**

**CHAIRMAN JOHN TORGERSON** called the Senate Resources Committee meeting to order at 4:00 p.m. and announced HB 53 to be up for consideration.

REPRESENTATIVE JOHN DAVIES, sponsor of HB 53, said that most other states formed earthquake commissions after the second largest earthquake in Alaska that measured 9.2 on the Richter scale. He added, "Alaska, ironically, is the only one to date that hasn't."

He said it's important to understand the distinction between preparedness for disaster and mitigating it. Preparation is done to make sure things are in place, like exit routes and response plans, when a disaster occurs. Mitigation is done ahead of time to reduce the effects of the expected disaster. He said that building codes are a form of mitigation for earthquake country. When disasters are infrequent, such as large earthquakes, there's a tendency to forget about the risks; that is why a commission is necessary. Representative Davies said his main concern is that a systematic look be taken at what steps the state should take, so

that when the next earthquake occurs, the loss of life and property is reduced.

SENATOR WILKEN questioned why another section of government is necessary to do this instead of DMV or the University.

REPRESENTATIVE DAVIES answered that government tends to be segmented into different areas. He is proposing a commission be established in the executive branch so that it has the ability to look across inter-agency lines. Although DMV and the University have taken some steps, in his and others' estimation (structural engineers from Anchorage and scientists from the University of Alaska), the state has not taken some steps that it should have. He pointed out, "If we have this commission that's above the individual agency level, we will get the appropriate look at the problem that we're not getting now."

SENATOR WILKEN asked if all four fiscal notes are current.

REPRESENTATIVE DAVIES replied that two are redundant. The Division of Geological and Geophysical Surveys (DGS) fiscal note contains some travel costs that are also built into the fiscal note from the Governor's Office.

SENATOR HALFORD said he noticed the commission will have the authority to accept grants, contributions and appropriations and asked if any are pending right now.

REPRESENTATIVE DAVIES said he didn't know of any but that grants are generally available through federal agencies.

SENATOR HALFORD pointed out the fiscal note is incredibly low, but it's covered by the fact that DNR would provide technical support from existing positions.

MR. MILTON WILTSE, Director, DGS, DNR, stated support for HB 53 because similar commissions have been very effective in bringing together private and public sector organizations to look at ways to mitigate the impacts of an earthquake and how to get things done on a voluntary basis, through building codes and various public policies.

MR. GARY CARVER said he is also a geologist who moved to Kodiak five years ago from California. He had a considerable amount of experience interacting with the California Seismic Safety Commission in California, so he has a first hand perspective regarding this issue. The California commission was created because California is in a high seismic exposure area and lacked

any kind of coherent way to provide expertise to decision makers. He noted, "Creation of the commission there provided the kind of focus that we need here in Alaska and, over the long haul down there, has more than paid its way in reducing earthquake losses..."

MR. SHELDON WINTERS, State Farm Insurance, said that State Farm works with commissions in other states and has found them to be a very effective way to identify mitigation issues for disaster potential of major earthquakes. He said, "A commission such as this allows for coordination of the different agencies, programs and expertise, and allows for consistent policies to be followed by all those agencies."

SENATOR TAYLOR moved to pass HB 53 from committee with individual recommendations and the accompanying fiscal notes. There were no objections and it was so ordered.

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#HB382

**CSHB 382(FIN)-CLEANUP OF ILLEGAL DRUG SITES**

REPRESENTATIVE GRETCHEN GUESS, sponsor of HB 382, said the intent of this bill is to insure that illegal drug labs are cleaned up before they are reoccupied. The State of Alaska has no guidelines to insure that illegal drug labs, such as meth-amphetamine (meth) labs, are cleaned up so two things tend to happen. Either a residential owner wants to clean up the lab and doesn't know what to do. In Juneau, when the owner of a house with a lab discovered it, he gutted the house and burned the hazardous material. He ended up getting fined. However, in most cases, a residential owner will vacuum the carpet and re-rent the house but the mercury, lead and other chemicals are still in the house and cause health risks to the new tenants. This bill sets up testing and decontamination criteria and guidelines for people to follow to insure that a unit is fit for occupancy.

CSHB 382(FIN) insures that the occupant, as well as the residential owner, is notified and that the owner signs a return receipt. She wanted to insure that the Department of Environmental Conservation (DEC) had to provide the material to the law enforcement agency.

She explained that the term "rent" is an interesting verb because it could be used for the person who rents to someone else or the person or to the person who pays to rent that property. Page 4, line 13 says a person is in violation and guilty of a class A misdemeanor if that person knowingly transfers, sells, leases or rents a property to another person. They also added in an

affirmative defense, which was suggested by the legal drafter, which requires notification to a property manager, if there is one involved in the situation.

REPRESENTATIVE GUESS said that this bill is supported by the municipalities, troopers and police forces who often bust these labs and then watch them be reoccupied knowing they haven't been cleaned up.

CHAIRMAN TORGERSON asked if they can usually find the owner of the property and whether this generally happens with rental properties.

REPRESENTATIVE GUESS replied that currently, law enforcement notifies the property owner of the bust on the property and that's where the process stops. The property owner has nowhere to go for clean-up information after he or she has been notified.

CHAIRMAN TORGERSON asked what the next step is if they don't get a return receipt from the person being notified.

REPRESENTATIVE GUESS said that is a very good question and she didn't know.

CHAIRMAN TORGERSON said they could just be setting themselves up.

REPRESENTATIVE GUESS said they would have to have something in place if the certified mail or the return receipt does not come back. She said law enforcement in Alaska has not had a problem finding the property owner and getting the receipt back.

CHAIRMAN TORGERSON said he didn't know if they should leave that in there.

SENATOR TAYLOR asked about the incident in Juneau.

REPRESENTATIVE GUESS explained that an out-of-state landlord came to Juneau after being notified of a bust at his Juneau property and tried to find some guidelines and help. He ended up gutting the house and taking the contents to the dump but the dump wouldn't take it because it was hazardous material. Not knowing what to do, he burned it outside of his home and was fined. DEC had no guidelines; no one had guidelines.

SENATOR TAYLOR asked who fined him.

REPRESENTATIVE GUESS said she believed it was either the state or the city. She wasn't sure.

SENATOR STEVENS asked who declared it hazardous waste.

REPRESENTATIVE GUESS replied that law enforcement officers are trained to do that, but in this case she thought the owner disclosed it when he went to the dump.

SENATOR TAYLOR moved to adopt the proposed committee substitute to HB 382. There were no objections and it was so ordered.

LIEUTENANT JULIA GRIMES said she was available to answer questions.

SENATOR STEVENS asked how often this occurs in a given year.

LIEUTENANT GRIMES replied that in 2000, 50 meth labs were eradicated. Right now police officers are following federal guidelines for notification of the property owner and placarding. To her knowledge, the police haven't failed to find the property owners in these cases.

SENATOR STEVENS asked if any statistical data is available to determine how many repeat incidents happened at the same location.

LIEUTENANT GRIMES said she didn't have that data, but she didn't think that happens very often.

CHAIRMAN TORGERSON asked if she thought the certified mail was a good thing, a bad thing or over burdensome.

LIEUTENANT GRIMES responded that she didn't think it was burdensome, since it's what they have been doing to comply with federal law. They are assisted a lot by the Drug Enforcement Agency (DEA).

SENATOR TAYLOR said his only concern is what enforcement tool will be used by the department when the owner fails, within four days, to remove the occupants, secure the property or do any testing.

REPRESENTATIVE GUESS responded that as long as they do not try to re-rent a unit or try to sell it without disclosure, there is none. If the owner chooses not to clean it up, that's okay; they just can't reoccupy it. The guidelines solely apply to reoccupying the property.

SENATOR TAYLOR asked what would happen if an owner reoccupies it.

REPRESENTATIVE GUESS replied that would be a class A misdemeanor (page 4, line 13).

SENATOR TAYLOR said he thought if they were going to hold people to that kind of standard, they should have something more than registered mail to get hold of them. Four days may not be an adequate period of time for notification. He asked where that number came from.

REPRESENTATIVE GUESS replied that some states use immediate, some use 24 hours, some use 48 hours. She added, "Given distances and absentee landlords, we doubled it...And it is 'knowingly' under the class A misdemeanor." She noted the Municipality of Anchorage allows 48 hours to secure a condemned property.

CHAIRMAN TORGERSON said that 'knowingly' in this case is upon return of the receipt after being notified by mail or some other method.

SENATOR TAYLOR asked Lieutenant Grimes what chemicals are found in a standard run-of-the-mill meth lab.

LIEUTENANT GRIMES replied that the typical chemicals are extremely caustic and corrosive, such as toluene, camping fuel, paint thinner, acetone, spray cleaner, butane fuel, gum scrubber detergent products and muriatic acid. Sulfuric acid is obtained from drain cleaner. Lithium batteries are required as well as sodium hydroxide, found in lye. The chemical reactions between those chemicals cause the real toxic residue, which gets spilled a lot. Fumes are absorbed into carpeting, furniture, upholstery and walls and remain until they are properly cleaned up. They are a real hazard to anybody who goes in without the correct equipment. Law enforcement officers go into these labs with appropriate breathing apparatus and clothing.

SENATOR TAYLOR asked if anyone knew the cost of cleanup.

MS. MARY SIROKY, legislative liaison for DEC, explained that cleanups can include removing carpeting, furniture, and taking down dry wall. Other states have looked at painting as a form of encapsulation.

SENATOR TAYLOR said they are talking about a very significant expense.

REPRESENTATIVE GUESS said that depends on the level of chemicals. DEC would set guidelines on decontamination.

SENATOR TAYLOR said that there is frequently more than one victim, not only those who use the drugs that are produced and that entire industry, but also the owners of property, the people who come up with a plan, inspectors, etc. He commented, "I can see this having a devastating affect on someone, especially in a multi-unit place."

MS. SIROKY responded that the law enforcement agency, which is in charge of the cleanup, would make the determination of whether or not the vapors and chemicals are restricted to one area or multiple areas. Their research shows that most of the time the damage stays in one unit. DEC will keep a list of people who are qualified to test, but are not certified, and establish guidelines on what has to be done, but an owner can choose to do it himself or hire someone who is certified to do it.

SENATOR TAYLOR asked where those people would be located.

MS. SIROKY said they have a list of about five or six labs that are capable of doing most of the testing. According to DEC research, no lab in the state is currently capable of testing for one of the substances, other than the state lab. DEC anticipates the state lab will fill that need until it's available in the private sector.

SENATOR TAYLOR asked how the state lab in Anchorage does the testing on a meth lab in Tok.

MS. SIROKY replied that the samples are shipped to the lab. DEC envisions the responsibility will be upon the owner of the facility to hire a contractor or get the expertise to do the sampling and ship it to the lab. DEC will not be out there sampling; it will just verify the lab samples.

SENATOR TAYLOR said he was trying to figure out what happens to somebody in a more rural community. He is concerned about a class A misdemeanor against mom and pop living in Glennallen and how they would go through the process of making sure it was inspected - finding the guy that is the inspector, getting the stuff to a lab, getting it cleaned up and having somebody verify it, etc. He thought it would work fine in Anchorage, but he didn't know about rural areas.

CHAIRMAN TORGERSON asked Representative Guess what would happen if the bill didn't pass.

REPRESENTATIVE GUESS replied that right now the police or

troopers will bust a meth lab, they post that it was a meth lab, they send notice to the residential owner and that's where it stops. They will not know if the building was ever cleaned and most likely it will not be cleaned in an appropriate way.

Regarding Senator Taylor's concern, she said the intent of the bill is that DEC would provide guidelines and a list of who to talk to about testing. DEC would also answer questions. The state is not going to go in and spend state resources cleaning up mom and pop's rental.

4:40 p.m.

SENATOR TAYLOR suggested that she use Civil Rule 4 for the notification process, so that if registered mail is used to notify a person, a refusal must be received. He noted that currently, before a building can be let for public use, the owner must get an occupancy permit. He suggested "bootstrapping" off of that because those permits are available in almost every community. A local building inspector could come out and see that the cleanup was adequate.

LIEUTENANT GRIMES clarified when law enforcement finds a lab and does an eradication, DEA has a contract with a civilian company that will go wherever the lab is located. So far, it has not mattered if the lab was in a remote location or in an urban location. The company will haul away any gross amount of hazardous chemicals and materials identified by the law enforcement officers on the scene.

SENATOR STEVENS asked if after the DEA removes the offending lab, the building is condemned and DEC comes in and determines whether there are any remnants of the production.

LIEUTENANT GRIMES replied that right now law enforcement takes samples and other evidence required to make a case and arrests and that's all.

**TAPE 02-23, SIDE B**

Lieutenant Grimes explained:

... call this company contracted to DEA, and they tell this company what they have identified as bulk chemicals or contaminated equipment that is HAZMAT and has to be handled, you know, specifically as HAZMAT. And that material is dealt with, you know, the glassware and other equipment you use to make the meth-

amphetamine isn't always seized because it's hazardous material. So it's destroyed but it's picked up and dealt with properly by this company. But the carpeting inside the house, for instance, or whatever else might be contaminated - that part of the residence, that is what remains that needs to be dealt with by the landlord.

SENATOR ELTON said he didn't see any irreconcilable differences and he thought the issue was about the protocols on handling these incidents. He thought Senator Taylor's points were good and that they could be worked out with the sponsor before Senate Finance hears the bill. He said he was comfortable moving the bill out of committee.

CHAIRMAN TORGERSON suggested having the bill referred to the Senate Judiciary Committee.

SENATOR HALFORD said he is interested in the new legal standard, because there are some other places he would like to apply it. He thought the legal standard in the definition of "illegal drug manufacturing site" is a good one because it means property in which there is a reasonably clear possibility.

CHAIRMAN TORGERSON said he didn't mind holding the bill in committee if Senator Taylor would help out with it.

SENATOR TAYLOR agreed to do so.

CHAIRMAN TORGERSON announced he would hold the bill in committee.  
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#HB508

**CSHB 508(RLS)-DIVE FISHERY ASSOCIATIONS/PSP REPORTS**

CHAIRMAN TORGERSON announced CSHB 508(RLS) to be up for consideration.

REPRESENTATIVE DREW SCALZI presented CSHB 508(RLS) on behalf of the House Resources Committee and said CSHB 508(RLS) is a very simple bill. The regional dive fishery is looking for better ways to get information out about areas with paralytic shellfish poisoning (PSP). Currently, DEC faxes the test results back to the applicant. The bill, through the intent language, asks DEC to post those hot spots on a website that is accessible to interested parties. It also asks, in section 2, that when ADF&G develops an annual operating plan for the regional dive fisheries, which it does every year, that DEC be included upfront

in the planning process. Currently, DEC comes in after the fact, which is cumbersome, especially if it shoots down or restricts a plan.

SENATOR TAYLOR asked why legislative intent is being used to address this problem. He pointed out, "We could send them a letter which would do the same thing. This is unenforceable."

REPRESENTATIVE SCALZI said DEC could speak to that, but he explained the initial draft placed that provision in section 1, and not under intent language. However, DEC wanted more latitude to develop the web page. DEC's concern is that if information is put on the web page in the wrong manner, the general public might be unduly alarmed about a red tide. DEC wants the ability to structure the website so that the people who need that information can access it through a series of steps.

SENATOR TAYLOR said his concern is broadcasting information that could be very damaging to proprietary operations, for example for a shellfish grower here in Juneau.

REPRESENTATIVE SCALZI said that is why the intent language gives DEC the latitude to develop the site. The information would still be public, but DEC could design it so that it is more geared toward the people who are interested, rather than provide information that could be misleading.

MS. MARY SIROKY, legislative liaison to DEC, said DEC's goal is to provide this information through some sort of log-in key for use mainly by producers. Producers want rapid access to the information and prefer using a secure way through the internet, as opposed to relying on faxes and phones. DEC would provide the producers with a log-in key that would not be available to the general public.

REPRESENTATIVE SCALZI said the reason is kind of the opposite of the problem. When a beach is known to be clean, the shell fishermen need every opportunity to harvest the product and get the product to market as rapidly as they can. They feel that sharing the information would improve that ability.

SENATOR TAYLOR said he is concerned that Representative Scalzi keeps saying this is public information. He asked if he sent clams to DEC for testing, whether the results would become public information.

MS. SIROKY said very little information is not available to the public under the state's Freedom of Information Act, so should

someone request the results, DEC would be required to provide that information.

SENATOR TAYLOR asked, regarding section 2, if state law has to be changed to have DEC participate in the development of the annual operating plan.

REPRESENTATIVE SCALZI replied yes.

MS. JULIE DECKER, Executive Director, Southeast Alaska Regional Dive Fishery Association, said PSP results are faxed to a list of Alaska shippers who have paid for the test. DEC tries to provide the results as soon as possible after they are known. She said a DEC website would provide a much more efficient process for the DEC lab. This bill will make DEC's job easier as it will receive fewer phone calls from divers. The bill will also eliminate the problem of who is allowed to see the PSP results by removing DEC completely that issue. In addition, this idea fits the vision of a more developed shellfish industry. It is possible the rest of the shellfish industry may follow in these footsteps if this proves to be a successful way to distribute information. The site will also be useful for data collection and planning purposes. The following is a letter she submitted to the committee in support of HB 508:

On behalf of SARDFA, the Southeast Alaska Regional Dive Fisheries Association, I would like to express support for House Bill 508.

HB 508 will do two things: 1) establish a state web site where all paralytic shellfish poisoning (PSP) results for geoducks will be posted and 2) include the Department of Environmental Conservation (DEC) in the planning stages of the dive fisheries each year.

It is necessary to establish a state web site where all geoduck PSP results will be posted for three reasons. First, the web site will allow the DEC lab personnel to be more efficient. Second, it will eliminate DEC from the role of deciding who is allowed to receive PSP results (e.g. only allowing those who paid for tests to see the results). Third, as both the harvested and farmed shellfish industries grow, the web site will be a public place to access PSP results for entire geographical areas. This will allow the geoduck fishery to be planned by both harvesters and shippers, will allow potential from sites to be chosen while taking historical PSP levels into account and will allow the

DEC regulator to see if PSP bloom are occurring in a given geographical areas.

Because SARDFa felt posting PSP results on the web was so necessary with respect to the geoduck fishery, SARDFa began posting the results this year on its new web site. You can view SARDFa's simplistic postings at [www.sardfa.org](http://www.sardfa.org) and click on "PSP Results".

Including DEC in the planning stages of the dive fisheries each year is necessary to coordinate information and scheduling between the groups involved (DEC, ADF&G and SARDFa). Currently the geoduck fishery and possibly the horse clam fishery in the future, requires coordination of area boundaries, water sampling stations and PSP planning related to old and new fishing areas in order to schedule the work necessary to open the fishery. Much of the work must be done during the summer months when weather and daylight permit.

HB 508 is another step toward creating a more efficient and improved working structure between state agencies and private entities. Thank you for your consideration of this bill.

SENATOR HALFORD moved to pass CSHB 508(RLS) from committee with individual recommendations and the accompanying fiscal note. There were no objections and it was so ordered.

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#HJR47

**CSHJR 47(RLS)-LOW SULFUR DIESEL FUEL REQUIREMENTS**

CHAIRMAN TORGERSON announced CSHJR 47(RLS) to be up for consideration.

MR. BILL LAWRENCE, staff to Representative Carl Morgan, sponsor, said he would answer questions.

MS. DONNA VUKICH supported CSHJR 47(RLS).

MS. MEERA KOHLER supported CSHJR 47(RLS).

SENATOR HALFORD moved to pass CSHJR 47(RLS) from committee and asked for unanimous consent. There were no objections and it was so ordered.

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CHAIRMAN TORGERSON adjourned the meeting at 5:03 p.m.