

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

March 3, 2003

3:16 p.m.

MEMBERS PRESENT

Representative Tom Anderson, Chair
Representative Bob Lynn, Vice Chair
Representative Nancy Dahlstrom
Representative Carl Gatto
Representative Norman Rokeberg
Representative Harry Crawford
Representative David Guttenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 51

"An Act requiring pharmacists to include generic drug information on containers in which brand-name prescription drug orders are dispensed."

- MOVED CSHB 51(HES) OUT OF COMMITTEE

HOUSE BILL NO. 94

"An Act exempting flight crew members of certain air carriers from overtime pay requirements."

- HEARD AND HELD

PREVIOUS ACTION

BILL: HB 51

SHORT TITLE: LABELING OF PRESCRIBED DRUGS

SPONSOR(S): REPRESENTATIVE(S) SEATON

Jrn-Date	Jrn-Page		Action
01/21/03	0045	(H)	PREFILE RELEASED (1/17/03)
01/21/03	0045	(H)	READ THE FIRST TIME - REFERRALS
01/21/03	0045	(H)	HES, L&C
01/24/03	0065	(H)	COSPONSOR(S): MEYER
01/27/03	0079	(H)	COSPONSOR(S): GARA

02/10/03	0173	(H)	COSPONSOR(S): CROFT
02/13/03		(H)	HES AT 3:00 PM CAPITOL 106
02/13/03		(H)	Moved CSHB 51(HES) Out of Committee
02/13/03		(H)	MINUTE(HES)
02/14/03	0212	(H)	HES RPT CS(HES) 5DP
02/14/03	0212	(H)	DP: HEINZE, GATTO, SEATON, CISSNA,
02/14/03	0212	(H)	WILSON
02/14/03	0212	(H)	FN1: ZERO(CED)
03/03/03		(H)	L&C AT 3:15 PM CAPITOL 17

BILL: HB 94

SHORT TITLE: OVERTIME PAY FOR AIRLINE EMPLOYEES

SPONSOR(S): TRANSPORTATION BY REQUEST

Jrn-Date	Jrn-Page		Action
02/12/03	0186	(H)	READ THE FIRST TIME - REFERRALS
02/12/03	0186	(H)	L&C
02/12/03	0186	(H)	REFERRED TO LABOR & COMMERCE
03/03/03		(H)	L&C AT 3:15 PM CAPITOL 17

WITNESS REGISTER

REPRESENTATIVE PAUL SEATON

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As sponsor of HB 51, explained how the bill would help prevent prescription drug overdoses by requiring the addition of the generic name on medication labels.

CHRIS KNIGHT, Staff

to Representative Paul Seaton

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Answered questions on HB 51 about federal drug labeling and coordination with the Board of Pharmacy.

REPRESENTATIVE BEVERLY MASEK

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As co-chair of the House Transportation Standing Committee, sponsor of HB 94 by request, testified that the bill clarifies state labor law on overtime for certain employees of air carriers.

JENNIE LOU BENDER, Flight Attendant
Era Aviation
Palmer, Alaska

POSITION STATEMENT: Spoke in support of HB 94, noting that working longer days allows her more time off in a month.

NANI IKAALI, Flight Attendant
Era Aviation
(Address not provided)

POSITION STATEMENT: Testified in favor of HB 94.

ACTION NARRATIVE

TAPE 03-16, SIDE A

Number 0001

CHAIR TOM ANDERSON called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Anderson, Rokeberg, Lynn, Gatto, and Guttenberg were present at the call to order. Representatives Dahlstrom and Crawford arrived as the meeting was in progress.

HB 51-LABELING OF PRESCRIBED DRUGS

Number 0040

CHAIR ANDERSON announced that the first order of business was HOUSE BILL NO. 51, "An Act requiring pharmacists to include generic drug information on containers in which brand-name prescription drug orders are dispensed." [The bill before the committee was CSHB 51(HES), Version 23-LS0191\I.]

Number 0060

REPRESENTATIVE PAUL SEATON, Alaska State Legislature, sponsor of HB 51, testified that the bill requires that prescription labels for brand-name drugs must also include the generic name. He said the bill addresses a common occurrence in which a person gets a prescription filled at one drug store and then obtains a refill from a different pharmacy; the result is two prescriptions with no indication that they contain the same medicine. The labeling required by HB 51 enables consumers to see that they have several containers of the same drug. When the bill was first drafted, Representative Seaton said he considered requiring the listing all the brand-names on the label, but decided against it. Such a label would unfairly list the products of the drug company's competitors.

Number 0328

REPRESENTATIVE SEATON described HB 51 as a consumer protection bill. He said that many senior citizen centers reported instances among their seniors of overdosing because of multiple bottles of the same medicine. He pointed to the bill packet, which contains a letter from the administrator of Homer Senior Citizens, Inc., as well as other letters of support. A [January 17, 2003] memorandum from Legislative Research quotes a report that states that 15 percent of medication errors are due to confusion between drug names. The same memo quotes the FDA [U.S. Food and Drug Administration] as listing 15 suggestions for eliminating drug overdoses; one recommendation is to provide brand and generic names on all medication labels.

REPRESENTATIVE SEATON said HB 51 was amended during a hearing in the House Health, Education and Social Services (HES) Standing Committee. The HES committee substitute (CS) [before the committee now] has one change from the original bill. Instead of requiring that the generic name be written below the brand-name in parentheses, the CS allows it to be placed anywhere near the brand-name. Some pharmacies already write the generic name below or above the brand-name, so the CS eliminates the need for pharmacists to change their computer programs. He said the bill information packet also contains prescription samples demonstrating the single-name label as well as the label with both brand and generic names.

Number 0430

CHAIR ANDERSON expressed his appreciation for the resource materials in the bill packet. He also noted that the following committee members are cosponsors of HB 51: Representatives Anderson, Crawford, Dahlstrom, Gatto, and Lynn. He asked if anyone in the audience or on teleconference wished to testify. With no additional testimony, he invited questions from committee members.

Number 0439

REPRESENTATIVE GATTO explained that he is a cosponsor of HB 51 but had questions about the definition of generic drugs. He asked whether the prescription label must show the generic name and list all the various brands of the same drug.

REPRESENTATIVE SEATON said HB 51 requires that the generic name be included on a brand-name prescription. But it does not require the listing of all other brand-names for that medicine.

Number 0502

REPRESENTATIVE GATTO explained that he wants to understand the definition of generic before the bill leaves the committee. He used the example of Benadryl, which contains diphenhydramine. He asked whether diphenhydramine is the generic or the scientific name.

REPRESENTATIVE SEATON said he was told by legislative legal staff that generic is defined in numerous places in state law.

Number 0596

REPRESENTATIVE ROKEBERG asked whether there's only one generic name for each drug. He asked whether the FDA, when it approves a drug for use, stipulates one specific generic name.

REPRESENTATIVE SEATON replied yes, the generic name is the name of the drug. He added that once the original patent runs out, there may be many brand-names.

REPRESENTATIVE ROKEBERG questioned whether drug companies can extend their patents by making small changes in the original formulas. He asked if the generic name would change if the drug's formula changed.

Number 0670

REPRESENTATIVE SEATON replied that regardless of the color, shape, or other characteristics of the medication, as long as the drug is the same, it carries the same name. If the drug gets a new patent, then a generic version cannot be manufactured or marketed until the new patent expires.

REPRESENTATIVE ROKEBERG said his concern is that drug companies will modify their drugs to extend their patents, delaying generic sales by their competitors. He asked if the sponsor has researched this aspect of drug sales and labeling.

Number 0760

REPRESENTATIVE SEATON said he had not researched this point. But, he added, if the drug is still patented, there can be no

generic version, and a patented drug cannot be filled in two different ways.

REPRESENTATIVE ROKEBERG asked Representative Seaton if he had talked to any drug companies, the PhRMA (Pharmaceutical Research and Manufacturers of America) lobby, or the Board of Pharmacy about HB 51.

REPRESENTATIVE SEATON said he had contacted PhRMA and Medco Health Solutions, a large HMO [health maintenance organization], both of which had no objections to HB 51, and Aetna, which supported the bill.

Number 0880

CHRIS KNIGHT, Staff to Representative Paul Seaton, Alaska State Legislature, replied to a question from Representative Rokeberg about the Board of Pharmacy. He explained that the sponsor spoke with the board to determine whether this prescription labeling could be accomplished by a bill or through regulation. The board indicated it planned to discuss this question at its next meeting. The sponsor went ahead with the bill. Mr. Knight reported that the board supported the concept and did not object to the bill.

REPRESENTATIVE ROKEBERG asked whether there's enough room on a prescription label to include the generic name.

Number 0932

REPRESENTATIVE SEATON explained that he considered the issue of limited space when he decided against an early draft of the bill that required listing generic and all other brand-names for any given drug. He said HB 51 adds one line of text or one name close to the brand-name. Family Pharmacy in Eagle River supplied the sample labels in the members' bill packets, demonstrating where its computer software places the generic name. He said Family Pharmacy did not have a problem with HB 51.

Number 0966

REPRESENTATIVE LYNN said that he was proud to be a cosponsor of HB 51. He compared the naming of drugs with the naming system for flowers and plants: each has a scientific Latin name but a variety of common names. He explained that in brand-name over-the-counter drugs, the label shows the active ingredient,

usually the generic name. He said this bill is needed and is a step in the right direction.

REPRESENTATIVE SEATON confirmed a comment by Representative Lynn that under HB 51, a prescription label for a generic drug would include only the generic name; a prescription label for a brand-name drug would include both the brand and generic names. In the case of two brand-name prescriptions, each label would have the generic name so they could be cross-referenced. Currently, the generic name is usually listed on the data sheet that accompanies the prescription.

Number 1070

MR. KNIGHT, in response to a question from Representative Rokeberg, explained that when the FDA approves patents, it assigns a generic name to every patented drug. He used the example of Viagra, assigned a generic name [sildenafil] by the FDA when it was patented; that patent is close to expiration.

REPRESENTATIVE ROKEBERG asked about the situation in which a generic name is listed next to the brand-name on a prescription label, but the generic version is not on the market. He asked if this raises the expectation that the cheaper version is available.

Number 1170

REPRESENTATIVE SEATON responded that the generic name on the prescription is the name of the medication, even if it's not available to purchase in a generic version. House Bill 51 requires the pharmacist to label drugs so that people can identify duplicate bottles of the same medicine and avoid overdoses.

MR. KNIGHT explained that Family Pharmacy in Eagle River already puts the generic and brand-names on the prescription label because it can and because it thinks it's a good idea. He responded to a question by Representative Rokeberg about whether consumers would be prompted to request a generic drug that is not yet available in a cheaper form. Mr. Knight related a conversation with a pharmacist who said he would be pleased if more people inquired about generic drugs and took an interest in their medications.

Number 1312

REPRESENTATIVE GATTO mentioned the example of Bayer aspirin and asked which name is generic and which is the brand-name.

REPRESENTATIVE SEATON replied that acetylsalicylic acid is the generic name, but HB 51 does not cover over-the-counter drugs. The bill covers the labeling of powerful prescribed medications so consumers can tell what drugs they are supposed to be taking. He said research shows that 59 percent of drugs are misused, and 15 percent of all medication errors are due to labeling problems.

Number 1374

REPRESENTATIVE GATTO explained that he was trying to get questions on the record that might be asked later in the legislative process. He again asked, in the case of Bayer aspirin and acetylsalicylic acid, which is the brand-name, the generic name, and the scientific name.

CHAIR ANDERSON commented that asking about aspirin is like comparing apples to oranges because aspirin is not a prescription drug; it would never be subject to this labeling law.

REPRESENTATIVE GATTO used the example of LAMISIL, terbinafine, a fungicide, and asked which is the brand-name.

REPRESENTATIVE SEATON stated that a fungicide is a type of medicine, LAMISIL is a brand-name, and terbinafine is the generic name. There could be lots of different brand-names, but each ointment would need to have "terbinafine" on the label.

REPRESENTATIVE GATTO said he supports HB 51 but wanted some clarity through discussion.

REPRESENTATIVE LYNN mentioned how his pharmacist will routinely offer him the choice of a brand-name or generic version of a prescribed medication.

Number 1578

REPRESENTATIVE SEATON, in response to a question from Representative Guttenberg, said he was not sure whether pharmacists in Alaska are required to advise customers if the cheaper generic alternative is available. The point of HB 51 is to prevent overdoses from two prescriptions for the same

medication. He reiterated that drug manufacturers did not object to the labeling in this bill.

REPRESENTATIVE ROKEBERG said he agreed with Representative Gatto's desire to get on the record the difference between generic, scientific, and brand-names.

Number 1688

REPRESENTATIVE LYNN moved to report CSHB 51(HES) out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, CSHB 51(HES) was reported from the House Labor and Commerce Standing Committee.

HB 94-OVERTIME PAY FOR AIRLINE EMPLOYEES

Number 1701

CHAIR ANDERSON announced that the final order of business would be HOUSE BILL NO. 94, "An Act exempting flight crew members of certain air carriers from overtime pay requirements."

Number 1720

REPRESENTATIVE BEVERLY MASEK, Alaska State Legislature, presented HB 94 on behalf of the House Transportation Standing Committee, by request, which she co-chairs. She noted that this bill was introduced to bring certainty to the interpretation of existing state and federal wage and hour laws as they pertain to the payment of overtime in the air transportation industry. Because of the uniqueness of their working conditions, flight crews have been considered professionals who are exempt from the standard 8-hour workday, 40-hour week, and the associated overtime pay requirements. In conjunction with the maximum flight-hour requirements set by the FAA [Federal Aviation Administration], these exemptions at both the state and federal level have allowed the industry to structure wage and hour schedules best suited to the work requirements of their flight crew personnel.

REPRESENTATIVE MASEK said that some Alaska court decisions have raised questions about the correct interpretation of state wage and hour laws and the application of overtime exemptions for flight crews. She said that HB 94 is intended to clarify the Alaska Wage and Hour Act and to ensure that Alaska law is consistently applied to the flight crewmembers of air carriers. The federal Railway Labor Act [45 U.S.C. 181-188] governs air

carriers, and the bill cites it in order to provide consistency between federal and state application of the exemptions.

REPRESENTATIVE MASEK noted that the bill packet includes background on the Railway Labor Act and sections of a lawsuit pending against Era Aviation in Anchorage.

Number 1828

JENNIE LOU BENDER, Flight Attendant, Era Aviation ("Era"), Palmer, testified in favor of HB 94. She explained that being exempted from overtime laws gives her blocks of personal time during which she uses her flight benefits to visit her children in other locations and to spend time with her husband when he's home from his job in the Bush.

CHAIR ANDERSON asked for clarification on how HB 94 would benefit her as a flight attendant.

MS. BENDER explained that if Era can schedule her to work longer than eight-hour days, she can work longer days and have more time off during a month.

Number 1890

NANI IKAAI, Flight Attendant, Era Aviation, testified in support of HB 94. She explained that HB 94 enables the airline to schedule employees more economically and allows employees to have larger blocks of time off in a month's period. Other employees who prefer an eight-hour day can be scheduled that way, she said.

Number 1926

MS. IKAAI, responding to questions by Representative Gatto, noted that because of the different routes and schedules the employees fly, this exemption from overtime allows them to work a duty period up to 12 or 14 hours a day, although they can only be in the air per FAA regulations 8 hours out of a 24-hour period. It allows a longer day, up to 6 days in a row, with the benefit of up to a week and a half off for personal time, including personal travel. She explained that she is not paid overtime; rather, she's guaranteed a certain salary for 60 flight hours per month. Instead of stretching the flight hours over 30 days, she can consolidate the hours into 15 or 18 days, giving her more personal time. She said in the airline industry, the personal time off is more important than the pay.

CHAIR ANDERSON reiterated that this bill puts into statute existing policy and exempts flight crews from overtime. He noted that the last time he spoke to a representative of the Teamsters Union, that person had no problem with HB 94.

Number 2025

REPRESENTATIVE CRAWFORD asked if this kind of scheduling also applied to pilots and questioned whether this is a safety issue.

MS. IKAASI explained that duty time for flight crews is restricted to 8 hours in the air in any 24-hour period and must include one day off in every seven. In response to Representative Crawford's question, she said that this would not require fewer pilots. She said pilots would benefit from the block of personal time off they could schedule. For example, instead of working five days on, two days off, pilots could possibly work six days on for two and one-half weeks and then have the rest of the month off. Other pilots would have reverse scheduling in order to cover the routes all month long.

Number 2114

REPRESENTATIVE CRAWFORD asked whether this type of scheduling is in use now.

MS. IKAASI explained that scheduling is fairly flexible now.

REPRESENTATIVE CRAWFORD asked if there were any pilots that could speak to the bill.

CHAIR ANDERSON said he will hold the bill over and keep public testimony open.

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 3:59 p.m.