

**ALASKA STATE LEGISLATURE**  
**SENATE STATE AFFAIRS STANDING COMMITTEE**

April 20, 2004

3:40 p.m.

**TAPE (S) 04-27**

**MEMBERS PRESENT**

Senator Gary Stevens, Chair  
Senator John Cowdery, Vice Chair  
Senator Bert Stedman

**MEMBERS ABSENT**

Senator Gretchen Guess  
Senator Lyman Hoffman

**COMMITTEE CALENDAR**

HOUSE BILL NO. 378

"An Act relating to the Alaska Food, Drug, and Cosmetic Act, including sales, advertising, certain devices, food donors, and food banks; making certain violations of organic food provisions and of the Alaska Food, Drug, and Cosmetic Act unfair methods of competition and unfair or deceptive acts or practices under certain of the state's unfair trade practices and consumer protection laws; and providing for an effective date."

MOVED HB 378 OUT OF COMMITTEE

CONFIRMATION HEARING:

Alaska Public Offices Commission-Roger E. Holl

CONFIRMATION ADVANCED

SENATE BILL NO. 380

"An Act relating to the extension under the State Procurement Code of terms for leases for real estate and certain terms for certain state contracts for goods and services; and providing for an effective date."

MOVED CSSB 380(STA) OUT OF COMMITTEE

SENATE BILL NO. 224

"An Act relating to lowering the legal level of intoxication for operating a motor vehicle, aircraft, or watercraft to .02 percent or the equivalent for persons under 21 years of age; relating to implied consent for purposes of determining consumption of alcohol; and providing for an effective date."

SCHEDULED BUT NOT HEARD

CS FOR HOUSE BILL NO. 93(FIN)

"An Act relating to boating safety, registration, and numbering; extending the sunset date of changes in ch. 28, SLA 2000; and providing for an effective date."

MOVED SCS CSHB 93(TRA) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

CONFIRMATION HEARING - No previous action to record.

BILL: HB 378

SHORT TITLE: FOOD, DRUGS, COSMETICS, CERTAIN DEVICES

SPONSOR(S): FINANCE

01/12/04	(H)	READ THE FIRST TIME - REFERRALS
01/12/04	(H)	HES, JUD
02/05/04	(H)	HES AT 3:00 PM CAPITOL 106
02/05/04	(H)	Moved Out of Committee
02/05/04	(H)	MINUTE(HES)
02/09/04	(H)	HES RPT 2DP 1DNP 2NR
02/09/04	(H)	DP: SEATON, WILSON; DNP: WOLF;
02/09/04	(H)	NR: GATTO, COGHILL
02/09/04	(H)	FIN REFERRAL ADDED AFTER JUD
02/23/04	(H)	JUD AT 1:00 PM CAPITOL 120
02/23/04	(H)	Moved Out of Committee
02/23/04	(H)	MINUTE(JUD)
02/24/04	(H)	JUD RPT 1DP 3NR 1AM
02/24/04	(H)	DP: MCGUIRE; NR: HOLM, GARA, SAMUELS;
02/24/04	(H)	AM: GRUENBERG
03/02/04	(H)	FIN AT 1:30 PM HOUSE FINANCE 519
03/02/04	(H)	Moved Out of Committee
03/02/04	(H)	MINUTE(FIN)
03/03/04	(H)	FIN RPT 4DP 6NR
03/03/04	(H)	DP: MEYER, FATE, FOSTER, WILLIAMS;
03/03/04	(H)	NR: HAWKER, STOLTZE, JOULE, CROFT,
03/03/04	(H)	MOSES, HARRIS
04/01/04	(H)	GRUENBERG CHANGED JUD RPT TO DP UC
04/05/04	(H)	TRANSMITTED TO (S)
04/05/04	(H)	VERSION: HB 378
04/06/04	(S)	READ THE FIRST TIME - REFERRALS
04/06/04	(S)	STA, JUD, FIN
04/20/04	(S)	STA AT 3:30 PM BELTZ 211

BILL: SB 380

SHORT TITLE: STATE LEASE AND CONTRACT EXTENSIONS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/26/04 (S) READ THE FIRST TIME - REFERRALS  
03/26/04 (S) STA, FIN  
04/20/04 (S) STA AT 3:30 PM BELTZ 211

BILL: HB 93

SHORT TITLE: BOATING SAFETY,REGISTRATION, NUMBERING

SPONSOR(s): REPRESENTATIVE(s) WEYHRAUCH

02/12/03 (H) READ THE FIRST TIME - REFERRALS  
02/12/03 (H) TRA, STA  
02/18/03 (H) TRA AT 1:30 PM CAPITOL 17  
02/18/03 (H) -- Meeting Canceled --  
02/25/03 (H) TRA AT 1:30 PM CAPITOL 17  
02/25/03 (H) Heard & Held  
02/25/03 (H) MINUTE(TRA)  
03/27/03 (H) TRA AT 1:30 PM CAPITOL 17  
03/27/03 (H) Scheduled But Not Heard  
04/01/03 (H) TRA AT 1:30 PM CAPITOL 17  
04/01/03 (H) Moved CSHB 93(TRA) Out of Committee  
04/01/03 (H) MINUTE(TRA)  
04/02/03 (H) TRA RPT CS(TRA) NT 1DP 2DNP 2NR  
04/02/03 (H) DP: HOLM; DNP: KOHRING, MASEK;  
04/02/03 (H) NR: OGG, FATE  
04/03/03 (H) STA AT 8:00 AM CAPITOL 102  
04/03/03 (H) Heard & Held  
04/03/03 (H) MINUTE(STA)  
04/08/03 (H) STA AT 8:00 AM CAPITOL 102  
04/08/03 (H) Moved CSHB 93(TRA) Out of Committee  
04/08/03 (H) MINUTE(STA)  
04/09/03 (H) STA RPT CS(TRA) NT 6DP  
04/09/03 (H) DP: SEATON, GRUENBERG, HOLM, LYNN,  
04/09/03 (H) DAHLSTROM, WEYHRAUCH  
04/09/03 (H) FIN REFERRAL ADDED BEFORE RLS  
04/14/03 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/14/03 (H) Heard & Held  
04/14/03 (H) MINUTE(FIN)  
01/22/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
01/22/04 (H) Heard & Held  
01/22/04 (H) MINUTE(FIN)  
01/29/04 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
01/29/04 (H) Moved CSHB 93(FIN) Out of Committee  
01/29/04 (H) MINUTE(FIN)  
02/02/04 (H) FIN RPT CS(FIN) NT 4DP 6NR  
02/02/04 (H) DP: MEYER, FATE, FOSTER, WILLIAMS;  
02/02/04 (H) NR: HAWKER, STOLTZE, JOULE, CROFT,

02/02/04 (H) CHENAULT, HARRIS  
02/04/04 (H) TRANSMITTED TO (S)  
02/04/04 (H) VERSION: CSHB 93(FIN)  
02/06/04 (S) READ THE FIRST TIME - REFERRALS  
02/06/04 (S) TRA, STA, FIN  
03/25/04 (H) TRA AT 1:30 PM CAPITOL 17  
03/25/04 (H) -- Meeting Postponed to 4/1/04 --  
04/01/04 (H) TRA AT 1:30 PM CAPITOL 17  
04/01/04 (H) -- Meeting Postponed to Fri, 4/2/04 --  
04/02/04 (S) TRA RPT SCS 2DP 3NR SAME TITLE  
04/02/04 (S) DP: WAGONER, COWDERY; NR: LINCOLN,  
04/02/04 (S) THERRIAULT, OLSON  
04/13/04 (S) STA AT 0:00 AM BELTZ 211  
04/13/04 (S) -- Meeting Canceled --  
04/20/04 (S) STA AT 3:30 PM BELTZ 211

**WITNESS REGISTER**

Representative Bill Williams  
Alaska State Capitol  
Juneau, AK 99801-1182  
**POSITION STATEMENT:** Sponsor of HB 378

Commissioner Ernesta Ballard  
Department of Environmental Conservation  
410 Willoughby  
Juneau, AK 99801-1795  
**POSITION STATEMENT:** Spoke in favor of HB 378

Kristin Ryan, Director  
Division of Environmental Health  
Department of Environmental Conservation  
410 Willoughby  
Juneau, AK 99801-1795  
**POSITION STATEMENT:** Answered questions on HB 378

Pat Lubbie  
AARP Advocacy Director  
No address provided  
**POSITION STATEMENT:** Testified on HB 378

Robin Northsayer  
Northern Hospitality Training Center  
No address provided  
**POSITION STATEMENT:** Testified on HB 378

Confirmation Nominee:

Roger E. Holl  
No address provided

Vern Jones  
Chief Procurement Officer  
Division of General Services  
Department of Administration  
PO Box 110200  
Juneau, AK 99811-0200  
**POSITION STATEMENT:** Introduced SB 380

Linda Sylvester  
Staff to Representative Bruce Weyhrauch  
**POSITION STATEMENT:** Introduced CSHB 93(FIN) for the sponsor

Sue Hargas  
Coast Guard Boating Safety Specialist  
Juneau, AK 99801  
**POSITION STATEMENT:** Gave information related to CSHB 93(FIN)

Kevin Quinlan  
Chief Of Safety Advocacy  
National Transportation Safety Board (NTSB)  
Washington D.C.  
**POSITION STATEMENT:** Testified on CSHB 93(FIN)

Jack Cadigan  
Captain, U.S. Coast Guard, retired  
Juneau, AK 99801  
**POSITION STATEMENT:** Testified on CSHB 93(FIN)

#### **ACTION NARRATIVE**

#### **TAPE 04-27, SIDE A**

**CHAIR GARY STEVENS** called the Senate State Affairs Standing Committee meeting to order at 3:40 p.m. Present were Senators Stedman and Chair Gary Stevens. They were awaiting a third member, but would hear the introduction to HB 378 in the meantime.

#### **HB 378-FOOD, DRUGS, COSMETICS, CERTAIN DEVICES**

REPRESENTATIVE BILL WILLIAMS, sponsor of HB 378, said the bill is the result of several years work with the Department of Environmental Conservation (DEC). The need stems from concern that bar and restaurant owners are concerned about paying high

fees but seldom receiving an inspection. Since 1995 the fees have risen from \$50 to \$450.

He asked DEC to come up with a plan and they did so. Commissioner Ballard was available to explain the basic points, he said.

CHAIR GARY STEVENS noted that Senator Cowdery had joined the meeting.

SENATOR JOHN COWDERY asked which cities and towns already have food inspections and whether this bill would result in a duplication of effort.

ERNESTA BALLARD, Commissioner of the Department of Environmental Conservation, acknowledged that it's hard for people to get excited about regulatory change, but if you're a regulator, this is exciting, she said. "We've been working for a year to redesign our food inspection and safety program so that it can achieve food safety in our state with its disconnected, no roads, vast reaches of open space but restaurants are available to our citizens and their guests all over the state of Alaska."

For the last 50 years they've had a consultative inspection program so that whenever inspectors were able to make inspections, they reviewed deficiencies and made suggestions. This regulatory program hasn't kept pace with those that have been developed for air, solid waste and wastewater management. An overhaul is past due as witnessed by the fact that before WWII there were 20 million meals served in restaurants every day and after the war that number jumped to 60 million per day. The National Restaurant Association (NRA) predicts that in 2004, 70 billion meals will be served in restaurants every day. Today the average person eats out 4.2 times per week. It's time for a change, she asserted. The NRA more than agrees and they have already qualified over 1 million workers in their food-workers safety certification program.

COMMISSIONER BALLARD said they propose to shift responsibility to the restaurant owners and operators in the same way that they hold other industry operators responsible for their performance in all DEC regulatory areas. "When the consequences of failure are unacceptable, we have learned...that standard operating procedures can be followed and can dramatically increase the likelihood of success."

CHAIR GARY STEVENS asked how they would determine that they're doing a good job in the future.

COMMISSIONER BALLARD said the first measure of success wouldn't be epidemiologic because you can't always be certain about the source of the illness. It could come from the post office as easily as from a restaurant. They will judge their success by the implementation of the program. It requires restaurants to advise DEC of their participation through annual or periodic signing. They will adopt standard operating procedures and conduct self-certification checks. DEC spot checks and will likely discover that a high percentage of those that are visited are maintaining their self-certification records. They implement their air and water programs in the very same way.

CHAIR GARY STEVENS said, "So in the end you cannot tell me how many people have gotten ill in Alaska this past year from badly handled food in restaurants or how many people have died and you cannot tell me five years from now."

COMMISSIONER BALLARD said that is true, but they are able to follow and track food borne illnesses. During the recent Iditarod, they tracked 74 cases along the trail and were able to prevent the spread of the disease to the celebratory banquet in Nome thanks to Kristin Ryan and her staff. They took 1,000 pair of disposable gloves to Nome and educated the food preparers and servers about ways to prevent the spread of disease. There wasn't a single case of illness. "That, to me, is a crystal clear demonstration. Every single checkpoint along the Iditarod Trail had an outbreak of Norovirus...and we stopped it in Nome with gloved hands. That is an operating procedure - clean hands. We couldn't guarantee that all 800 people would wash their hands, but we could guarantee that dirty hands wouldn't touch the common serving utensils."

CHAIR GARY STEVENS said he applauds what they are doing, but he's uncomfortable with the lack of statistics.

COMMISSIONER BALLARD said she could provide national statistics.

KRISTIN RYAN, director, Division of Environmental Health, told the committee that they do have some figures for illness outbreaks in Alaska. They are reported to the epidemiology section, but food borne illnesses are reported at a 25 to 1 ratio. That's the dilemma they have in using numbers as an indication that the system is working, she said.

CHAIR GARY STEVENS asked if we're getting better at protecting the public or not.

MS. RYAN said it's hard to measure prevention because if one person dies that's too many. It's difficult to count the cases that didn't occur, but you can count cases that do occur and are reported so you can show trends. "But it's a slippery slope to base all your decisions on one indicator. I would recommend a balance performance measure portfolio. ....There are a variety of ways you can determine that people are getting safe food rather than just relying on outbreak numbers."

COMMISSIONER BALLARD said ours is a different job than the epidemiology job, which is trying to count the results. Our job is to know that we're protecting people from exposure.

MS. RYAN added that a previous performance measure that will continue to be an indicator is critical violations found while performing inspections. "We will continue to be doing our inspections at the frequency that we are doing them," she assured.

SENATOR BERT STEDMAN asked about the fees.

MS. RYAN said they are proposing to charge \$10 for a food handler card that would remain valid for three years.

SENATOR STEDMAN asked if the card could be obtained online.

MS. RYAN said their primary conduit would be the Internet. The information and test would be offered online, but arrangements could be made for a proctored exam if a computer wasn't available. The information would be free while the test would carry a charge. When you pass the test, you could print your own card that would be similar to a driver's license.

SENATOR STEDMAN asked who would take the test.

MS. RYAN said they are proposing that anyone who touches unpackaged food would be trained. They haven't determined how they would apply the process, but they want to engage the regulated industry through a negotiated rule making process.

SENATOR STEDMAN asked whether DEC would impose civil fines for violators.

MS. RYAN told him the enforcement mechanisms are narrow. Currently they can close the establishment or press criminal charges, but neither option is efficient for enforcing minor regulatory violations. They propose the ability to impose civil fines.

SENATOR STEDMAN asked whether the current inspectors would continue in their jobs.

MS. RYAN assured him they are an essential component. She pointed to a chart that depicts food safety as a three legged stool with the three legs representing enforcement, managing risks and a knowledgeable workforce. The stool doesn't stand without all three legs.

SENATOR COWDERY asked whether someone running a hotdog stand on the street would have to participate.

MS. RYAN said they would address that through the regulatory process, but they're proposing that anyone who handles unpackaged food would participate.

SENATOR COWDERY asked what score would result in a closure order.

MS. RYAN said Anchorage is the only area in the state that has its own food safety program and he was probably familiar with that program.

SENATOR COWDERY asked whether they would post scores in other areas of the state.

MS. RYAN told him that inspections aren't frequent enough to rely on them alone for food safety. They're considering posting an 800 number that people could call to report bad food experiences though.

CHAIR GARY STEVENS asked what other states are doing in this regard and whether this proposal is the best route.

MS. RYAN said that other states are going this route to some extent, but Alaska food safety experts came up with this model.

COMMISSIONER BALLARD added that this solution appeals to DEC because professionals developed the program and because it's the system that Pillsbury Kitchens designed for NASA. In that system you identify critical hazard steps, which are the places in food

handling where contamination might occur and you focus on those through standard operating procedures and institutionalizing control. Finally, the proposal is sound because the Division of Environmental Health has used the same regulatory system for air and wastewater and they know that it works well. There's no reason the restaurant industry shouldn't fall in line, she said.

It's reasonable to ask people to conduct self-inspections and implement standard operating procedures as the method of achieving compliance with standards that are set by the regulators, she asserted.

CHAIR GARY STEVENS asked whether this proposal might not overlap with the Anchorage program ultimately causing the municipality to close their food safety program down and rely on DEC.

COMMISSIONER BALLARD pointed out that DEC does have the statutory authority to delegate the responsibility for food safety. Alaska is currently the only state that administers the program at the state level and DEC would be delighted for jurisdictions that are capable to assume responsibility.

MS. RYAN added that Anchorage already requires their food managers to be certified.

PAT LUBBIE, advocacy director for AARP, Alaska, spoke in favor of the proposal. With regard to food safety, a good day is one in which nothing happened, he said. Training workers with certified managers does decrease food borne illnesses, he said, and this bill will provide for that training. It also provides fines for non-compliance. "We think this is very important for Alaska," he concluded.

CHAIR GARY STEVENS asked whether other states take such a hands-off approach to inspections.

MR. LUBBIE said there would never be enough people to do as many food inspections as they would like, but this is a good second choice because it places the responsibility on the restaurant owner/operator.

ROBIN NORTHSAYER, owner/operator of Northern Hospitality Training, spoke in support of HB 378. Having been in business for about four years, she said she could speak from the standpoint of a trainer as well as a consumer who has contracted a food borne illness from a restaurant.

In the last four years she has trained close to 1,000 food managers and about the same number of food handlers. These people leave the training program with the knowledge and desire to keep people safe. Food handlers and managers have a duty to send people home safely. Sending citizens and visitors home with food poisoning is not the kind of advertising we're looking for, she said.

SENATOR COWDERY motioned to report HB 378 from committee with individual recommendations and attached fiscal notes. He asked for unanimous consent. There being no objection, it was so ordered.

### CONFIRMATION HEARINGS

CHAIR GARY STEVENS announced the committee would take up confirmation hearings. He asked Mr. Holl to give his opening remarks.

ROGER E. HOLL spoke via teleconference and told members he had submitted a copy of his resume and appeared before the Alaska Public Offices Commission. They submitted his name to the governor who forwarded his name to the Legislature.

He reported that he has served the State of Alaska in good non-partisan ways over the years. He worked with the University of Alaska on the governor's institutional restructuring committee years ago and now works as an adjunct faculty member. He served with the Department of Military and Veterans Affairs as commander of the 492nd Coastal Command for Alaska and for some years he wrote opinions for the ethics committee at the Alaska Bar Association. He has been an attorney in private practice since he arrived in Alaska in 1972 and has enjoyed that profession.

He indicated to the commission that he didn't come with a preordained agenda, but he believes in the purpose of the commission to disclose to the public to make the election process fair and open. He also notes that some of the statutory duties of the commission are to assist candidates or groups to comply with the regulations and to develop the proper forms and manual.

CHAIR GARY STEVENS noted that his resume indicates he has a great deal of experience that would be of benefit to the Alaska Public Offices Commission.

**TAPE 04-27, SIDE B**  
**4:30 pm**

SENATOR BERT STEDMAN asked whether he intended to retire in the state.

MR. HOLL said that if he does retire it would be in the state.

CHAIR GARY STEVENS asked for a motion to forward Mr. Holl's name to the joint body for confirmation.

SENATOR JOHN COWDERY so moved. There being no objection, it was so ordered.

**SB 380-STATE LEASE AND CONTRACT EXTENSIONS**

SENATOR GARY STEVENS announced SB 380 to be up for consideration. He asked for a motion to adopt the \D version committee substitute (CS).

SENATOR JOHN COWDERY made a motion to adopt \D version CS for discussion purposes.

SENATOR GARY STEVENS asked Mr. Jones to come forward and present the bill.

VERN JONES, chief procurement officer, Department of Administration, explained that the current procurement code allows for negotiation for extension of office leases of up to ten years in exchange for rent reductions. He further explained that:

SB 380 would increase the State's ability to negotiate lease extensions by changing the required threshold from a 10 to 15 percent reduction from the existing lease rate, as the current law requires, to a 10 percent reduction from the current market rate for the area.

Existing statutory restrictions on negotiations have hampered our ability to negotiate lease extensions with our lessors. The increase in the real estate market in Alaska combined with the way we structure our leases often makes a 15 percent reduction from the current lease rates unattainable. Tying the reduced lease rate to a percentage of the market rate is a more reasonable approach that will allow us to negotiate reduced rates more frequently and avoid the

lengthy and expensive reprocurement process not to mention the cost and disruption of moving state offices and large numbers of state employees.

Holding up a chart he continued to say:

Our typical state office leases are comprised of several cost elements. First of all we have the lessors profit that's built in throughout the life of the lease. We have the lessor's base cost that are ongoing throughout the life of the lease. We also have the landowner's construction or tenant improvement costs that typically are financed and amortized only through the first firm term portion of the lease. Typically those fall off in the optional renewal periods. This is intended to demonstrate the cost of the lease - all the cost elements of the lease throughout the life of the lease.

As the chart demonstrates, a rate below the already reduced rate of an option year is often too low for a lessor to agree to. On the other hand a percentage below the market rate, which is generally established at the beginning of the lease, is much more reasonable. [It's] something that lessors will more often accept and again, the more often we can negotiate a below market rate and avoid the cost of reprocurement and moving expenses, the more the state saves.

The committee substitute that you just adopted makes some changes to the original bill. Those changes are: It removes procurement contracts from the bill. Now it's just strictly office space leases. It specifies how the market rate is established. It's either a broker's opinion of rental value or an appraisal of the rental value. It tightens the definition up. And it changed what was a five percent reduction to now a 10 percent reduction.

CHAIR GARY STEVENS thanked him and asked if there were any questions.

SENATOR BERT STEDMAN noted there was a memo from Theresa Bannister, Legislative Counsel, warning that the draft's coverage of the judicial branch could raise a separation of

powers issue. He asked Mr. Jones to define the issue and comment on the potential impact.

MR. JONES said this issue was raised in a House Labor and Commerce Committee hearing. It refers to Section 1 (b) and is talking about the Legislature passing a law that would restrict the court system. However, one of the committee members spoke with a representative of the court system who supported the bill and stated that they plan on taking advantage of the bill if it should pass. "Beyond that I really couldn't comment," he said.

SENATOR JOHN COWDERY asked whether he'd addressed the other issue raised in the same memo that said the "proposed Sec. 36.30.083 establishes a reporting requirement for the judicial branch."

MR. JONES replied that same Section 1 (b) requires the executive branch to report on lease extensions under the bill. He wasn't sure the court system was uncomfortable with that and he didn't have any suggested change. "I think the intent here is that since this is not full open RFT or ITD type procurement that the Legislature would like to see reporting on agreements made under this section," he said.

SENATOR COWDERY asked if the bill had a Judiciary Committee referral.

SENATOR GARY STEVENS told him the Finance Committee would hear the bill next. He noted that the bill addresses rental space and goods and services. The bill authorizes term extensions for five years on goods and services contracts, but he wasn't clear as to whether the extensions were for rental space or leases as well. "Is this a similar thing or not," he asked.

MR. JONES explained that the CS removes other contracts from the bill so only procurements of leased real estate or leased office space are included. "The rule that the bill would employ would be up to a ten year maximum extension of a lease in exchange for minimum 10 percent reduction from market value."

SENATOR GARY STEVENS wanted to make it clear and asked for verification that although the governor's letter of March 24, 2004 spoke of leases and contracts for goods and services, the CS relates to just leases and not with contracts for goods and services.

MR. JONES agreed that is correct.

There were no further questions.

SENATOR GARY STEVENS asked for a motion.

SENATOR COWDERY made a motion to move CSSB 380(STA) [\D version] from committee with attached fiscal note and asked for unanimous consent. There being no objection, it was so ordered.

**CSHB 93(FIN)-BOATING SAFETY,REGISTRATION, NUMBERING**

CHAIR GARY STEVENS announced HB 93 to be the next order of business. [The committee considered SCS CSHB 93(TRA).]

LINDA SYLVESTER, staff to Representative Bruce Weyhrauch, explained that the bill reauthorizes the boating safety program that passed in 2000. "It created a superb comprehensive boating safety statute for Alaska." As a result, safety on Alaska's inland and marine waters increased and fatalities decreased.

The Act did two things: it consolidated boating regulatory functions and it created a steady funding source for boater education programs for the state of Alaska. Funding for the new registration function is derived from federal motor fuel taxes collected in Alaska as well as revenues from the boat registration program.

Originally the bill had a sunset to ensure that this didn't become an unfunded mandate if the federal funds didn't continue. The federal funding stream is currently in place and the House Finance Committee placed a 2010 sunset provision on the program.

MS. SYLVESTER noted that there are 350 active sites in about 140 communities across the state that participate in the "Kids Don't Float" lifejacket loan program. This is a successful program that is funded by the boating safety program.

SENATOR JOHN COWDERY asked if this included documented boats or just registered boats.

SUE HARGAS, Coast Guard Boating Safety Specialist, told him this includes only registered boats. Documented boats are documented under a national documentation program.

SENATOR COWDERY said, "I just wanted that on the record. I knew that."

MS. HARGAS told Senator Cowdery that the program wouldn't affect his boat. Continuing, she said Alaska has done a good job with the program since inception. "Alaska was the last state in the nation to take a program on and [the state] really took the opportunity to work with us and work with other states to put together a good program." This is an education rather than compliance program with 75 percent of the federal proceeds going to education and safety.

The authority for the programs went to the states in 1958 and the funding followed in 1971. Since September 11 it's become more important for states to run the program because the Coast Guard has increased national security duties.

SENATOR BERT STEDMAN noted some of the exemptions and was curious why recreational boat tenders aren't exempted.

MS. HARGAS explained that the federal law requires that all boats equipped with machinery propulsion be registered. The original exemption for less than 10 feet was included because the Legislature decided to include registration requirements for vessels not equipped with machinery propulsion that were over 10 feet long. This meant that canoes, kayaks and other similar craft had to be registered.

Since that time the public has spoken up in opposition to that requirement so that was one of the first things taken out. As written, CSHB 93(TRA) requires any boat with machinery propulsion to be registered, which is in line with the federal requirement, and does not require non-motorized vessels to be registered. "Tenders under both federal law and state law would be required to register."

SENATOR STEDMAN asked for verification that tenders would have to be registered regardless of state law because federal requirements trump state laws.

MS. HARGAS agreed.

SENATOR STEDMAN asked what happens if you put a 2 HP motor on your canoe.

MS. HARGAS told him that once you put a motor on the canoe, you'd have to register it. "Anything that's equipped with

machinery propulsion. Same thing with sailboats; if they have a motor on them, which many sailboats do, they have to register."

SENATOR STEDMAN remarked that he didn't agree with the requirement.

CHAIR GARY STEVENS noted that Jeff Johnson, with the Office of Boating Safety in DNR, was available to answer questions. He then called on Mr. Quinlan.

KEVIN QUINLAN, chief of safety advocacy at the National Transportation Safety Board (NTSB) in Washington D.C., described the board as the independent transportation accident investigation agency. He reiterated, "The Boating Safety Program is an exceptionally effective program. Nationally we were running about 1,200 fatalities per year before the Boating Safety Program started and we're down to about 6 or 7 hundred now."

His only criticism of the bill was in Section 3. Because the program is so successful, he could see no reason for the sunset; this should be a permanent program.

SENATOR STEDMAN asked how boats without title are addressed.

MR. QUINLAN told him the Coast Guard representative was better able to answer that question.

MS. HARGAS advised that there has been better compliance since the state took over the program. She opined this is because there is an increased awareness of the program and it's more convenient and visible located in the DMV.

She asked if that addressed his basic question. The number of registrations is up and they haven't heard resistance from boaters regarding fees, which are \$24 for 3 years.

SENATOR STEDMAN replied boaters are motivated when fish and game officers check fishing licenses and find boats that aren't registered. He reported that all his motorized boats are now registered. "We're all-legal now," he said.

MS. HARGAS said that the Coast Guard relies on those numbers heavily for search and rescue operations. They are particularly important in the coastal areas and Southeast Alaska in particular.

CHAIR GARY STEVENS announced that he would lose a quorum in nine minutes and he would like to move the bill.

JACK CADIGAN, Captain, U.S. Coast Guard, retired, stated that he was representing the Coast Guard auxiliary, an organization that has 400 volunteers around the state. He read testimony in support of HB 93 into the record. A copy of his full testimony may be found in the bill file.

There was no further testimony.

SENATOR COWDERY made a motion to move SCS CSHB 93(TRA) from committee with accompanying fiscal note and individual recommendations. There being no objection, it was so ordered.

CHAIR GARY STEVENS adjourned the meeting at 5:00 pm.