

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

May 17, 2003

11:16 a.m.

MEMBERS PRESENT

Senator John Cowdery, Chair
Senator Thomas Wagoner, Vice Chair
Senator Gene Therriault
Senator Georgianna Lincoln

MEMBERS ABSENT

Senator Donny Olson

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 251(FIN) am
"An Act relating to exemption of certain foreign pleasure craft from the mandatory pilotage requirement and to civil fines imposed on the owner or operator of a pleasure craft of foreign registry; and providing for an effective date."

MOVED SCS CSHB 251(TRA) 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."

HEARD AND HELD

PREVIOUS ACTION

HB 251 - No previous action to record.

SB 224 - No previous action to record.

WITNESS REGISTER

Representative Nancy Dahlstrom
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor HB 251

Rex Shattuck
Staff to Representative Nancy Dahlstrom

Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Testified on HB 251

ROBERT WINTER
Southeast Alaska Pilots Association
Juneau, AK 99801
POSITION STATEMENT: Testified on HB 251

Crystal Moore
Staff to Senator John Cowdery
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Introduced SB 224

Trooper Matt Leveque
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
POSITION STATEMENT: Testified on SB 224

Juanita Hensley
Special Assistant to the Commissioner
Department of Public Safety
PO Box 111200
Juneau, AK 99811-1200
POSITION STATEMENT: Testified on SB 224

ACTION NARRATIVE

TAPE 03-22, SIDE A

CHAIR JOHN COWDERY called the Senate Transportation Standing Committee meeting to order at 11:16 a.m. Present were Senators Gene Therriault, Thomas Wagoner, and Chair John Cowdery. Senator Georgianna Lincoln arrived shortly. The first order of business was CSHB 251.

HB 251-MARINE PILOT FOR FOREIGN PLEASURE CRAFT

CHAIR JOHN COWDERY asked for a motion to adopt the Senate committee substitute (CS) as the working document.

SENATOR THOMAS WAGONER made a motion to adopt SCS CSHB 251 \C version as the working document. The motion carried with no objection.

REPRESENTATIVE NANCY DAHLSTROM, bill sponsor, described HB 251 as an effort to correct a problem in the marine pilotage requirements identified in a recent legislative budget and audit report. They recommend the Board of Marine Pilots seek statutory authority to allow the discretion to grant waivers of pilotage requirements for large pleasure craft.

She pointed out the letters of support in the packets and opined the legislation would promote economic development in Southeast Alaska coastal communities.

She provided the following sectional overview:

- Section 1 - Imposes a \$10,000 civil fine for violation of the pilotage laws.
- Section 2 - Outlines the fee structure for a waiver application.
- Section 3 Exempts foreign flagged pleasure craft of 65 feet or less from pilotage laws.
- Section 4 - Adds new subsections:
 - (b) Outlines exemptions for foreign flagged pleasure craft over 65 feet and less than 175 feet exclusive of the waters of the Wrangell Narrows and the water between Chatham Strait and Sitka via Peril Strait
 - (c) Adds the use of a licensed Alaska agent for yachts over 65 feet and less than 125 feet in length.
 - (d) Mandates use of pilots on foreign flagged pleasure craft of more than 125 feet and less than 175 feet in length at the first pilot station into the first port of call.
 - (e) Defines "for hire" and "pleasure craft" according to the U.S. Coast Guard definitions.

11:35 a.m.

CHAIR COWDERY asked whether she would consider a friendly amendment on page 3, line 8 changing "10 working days" to "30 working days".

REPRESENTATIVE DAHLSTROM agreed.

CHAIR COWDERY asked for a motion to amend.

SENATOR THOMAS WAGONER made a motion to amend.

CHAIR COWDERY asked whether there were any questions.

SENATOR GEORGIANNA LINCOLN pointed out that it would be necessary to change "10" to "30" on line 9 as well.

REPRESENTATIVE DAHLSTROM asked her staff to provide further explanation on subsection (b).

REX SHATTUCK, staff to Representative Dahlstrom, explained there are probably two issues that should be addressed. The time for scheduling marine pilots might need advance notice and the time to work on the waiver might need additional time. He suggested addressing the need for more scheduling time by inserting, "The application for a waiver must be submitted to the board at least 30 days before the vessel enters the state."

CHAIR COWDERY said that would accomplish what he intended. He then questioned whether the 10 day approval period was adequate.

MR. SHATTUCK replied the intent is to give 10 days processing time, but the 10 day period for action would be suspended if additional information were needed from the applicant.

CHAIR COWDERY asked if the others would stay at 10. [References to 10 days on page 3, lines 9 and 11]

MR. SHATTUCK replied the 30 day time for scheduling would be a separate statement and application processing time could be either 10 days or 30 days. Occupational licensing indicated the 10 day period for application processing was acceptable and the Marine Pilots Association has indicated that the 30 day notice would be suitable for their scheduling. "So leaving the existing 10 day period for approval of the waiver appeared to be okay as far as occupational licensing goes, whereas 30 days in advance for the scheduling. I would submit that 30 days for the processing of the waiver would be acceptable, I'm sure, to occupational licensing too."

SENATOR LINCOLN noted there is reference to a 10 day limit on line 11 as well. She then requested a written copy of the proposed amendment.

MR. SHATTUCK said he recently learned that not giving the marine pilots 30 days scheduling notice could be problematic. The language he suggested came from a previous version of the legislation and, although he didn't have copies to distribute, he would provide them in short order.

SENATOR LINCOLN said she would appreciate a copy. Assuming the proposed amendment is inserted, she asked whether he was saying the three references to 10 days [page 3, lines 8, 9 and 11] had to be changed or did not have to be changed.

MR. SHATTUCK explained 30 days is critical for marine pilot scheduling and waiver processing could be either 10 or 30 days.

CHAIR COWDERY said he understood there to be three separate issues. He asked Mr. Shattuck to explain.

SENATOR LINCOLN said she simply wanted clarification of the numbers.

MR. SHATTUCK said a way of dealing with the time might be to have an application requirement of 30 days prior to the vessel entering the state to cover marine pilot scheduling. As a separate issue, it would be appropriate that the time periods on lines 8, 9 and 11 be the same.

SENATOR WAGONER said the dates on lines 8 and 9 are integral and therefore must be the same.

MR. SHATTUCK said the ten day processing time would be acceptable and so the other two dates would have to be 10 as well. Thirty days for scheduling purposes would help the marine pilots.

CHAIR COWDERY asked whether the amendment for 30 days on line 8 and leaving 10 days on line 9 was acceptable and a reasonable time.

REPRESENTATIVE DAHLSTROM said that was correct.

SENATOR WAGONER said he must not understand what he was reading because the 10 working days referred to on line 8 was the same 10 working days referred to on line 9. Changing one would automatically require a change of the other.

CHAIR COWDERY asked Senator Lincoln if she wanted to add to that statement or wait for a response from the sponsor.

SENATOR LINCOLN said the amendment would add a separate section to accommodate the marine pilots 30 day scheduling requirement. She made it clear she was not making a motion before she read the language Mr. Shattuck proposed. It said, "An application for the exemption shall be submitted to the marine pilot coordinator

at least 30 days before the vessel enters the compulsory pilotage water of the state." She continued to explain; after that language is inserted, the three references to 10 days on page 3 lines 8, 9 and 11 would remain the same.

SENATOR WAGONER agreed that made sense; they all have to be the same.

UNIDENTIFIED SPEAKER said, "They don't."

SENATOR WAGONER disagreed and restated his position saying, "This amendment will make a difference, but right now, without the amendment, they have to be the same."

SENATOR LINCOLN asked the Chair if he was withdrawing his motion.

CHAIR COWDERY said he withdrew his request to amend, which was to change "10" days to "30" days on page 3, line 8.

SENATOR LINCOLN made a motion to amend. On page 3, line 7 after "is issued." insert, "An application for the exemption shall be submitted to the marine pilot coordinator at least 30 days before the vessel enters the compulsory pilotage water of the state."

CHAIR COWDERY said, "That would go down, starting on line 7 at 'The board' ending on line 12 at 'applicant.' We'd replace that with the language you're talking about."

SENATOR LINCOLN clarified she was proposing to insert the language after the word "issued." and it's a new sentence. It would replace nothing.

MR. SHATTUCK read (b) with the inserted language to clarify.

CHAIR COWDERY asked if the language was satisfactory and whether everyone understood.

REPRESENTATIVE DAHLSTROM agreed to the amendment.

SENATOR LINCOLN asked for an at-ease.

11:37 a.m.

CHAIR COWDERY called an at-ease.

11:43 a.m.

CHAIR COWDERY reconvened the meeting.

There was no objection to amendment #1 and the motion passed.

CHAIR COWDERY asked if anyone wanted to testify on the bill.

ROBERT WINTER from the Southeast Alaska Pilots Association testified in support of the current committee substitute for HB 251, but advised that some members had reservations about the 175 foot exemption limit. He explained the focus is to ensure safety on the waterways.

CHAIR COWDERY asked for confirmation that the bill addresses foreign flagged vessels only.

MR. WINTER confirmed.

CHAIR COWDERY asked how many pilots would be required for a vessel that stays in Alaska waters for a week.

MR. WINTER replied just one pilot is typically sent to a yacht because most yachts don't run for more than eight hours at a time. He pointed out that cruise ships have two pilots on board if they run more than eight hours so different schedules are accommodated.

CHAIR COWDERY asked how Alaska waters is defined.

MR. WINTER explained that for pilotage purposes, Alaska waters are located inside the headlands.

CHAIR COWDERY asked who transports the pilots.

MR. WINTER said in Southeast a pilot boat typically takes a pilot to a yacht, but a charter floatplane might sometimes provide transportation.

CHAIR COWDERY asked who pays for the transportation.

MR. WINTER replied the owner of the yacht pays, which is the same as for cargo and ore ships that require pilots.

SENATOR WAGONER asked about boats for hire.

MR. WINTER explained the intent of this bill is to address pleasure craft and not vessels that carry passengers or freight for hire.

SENATOR LINCOLN asked Mr. Winter to be more specific about any safety concerns pilots may have as related to this legislation.

MR. WINTER said present statute allows vessels up to 300 gross ton, which would be about 125 feet in length. Vessels that are 175 feet long may range from 600 gross tons up to 1,500 gross tons, which is a small ship. In the past these vessels have been entering Alaska waters without a pilot and the state hasn't enforced the pilot requirement. He continued, "Under the present statute, we would be exempting some of those, but there is a requirement for them to take a pilot on initial entry where the pilot would provide them with navigational safety information." This information would include fishing openings, cruise ship schedules and other pertinent information they aren't necessarily getting so this bill might increase safety.

SENATOR WAGONER brought up the issue of homeland security and asked if there was any concern associated with foreign flag vessels.

MR. WINTER said that is a federal or Coast Guard concern and this bill isn't a big issue to them. They are already tracking vessels of special interest.

SENATOR LINCOLN referred to the fiscal note from occupational licensing showing revenues of \$102,000 and asked how much of the new revenue would come from civil fines and who would impose the fine.

MR. WINTER said the way the law stands currently, those fines are criminal in nature and substantial at \$15,000 for the first infraction. Changing the infraction to be civil in nature would make it possible for the board to deal with the fines. Also, length is a more definitive factor than gross tonnage for identifying the vessels that would require a pilot. Because foreign yachts are required to give 96 hours notice before entering U.S. waters, the Coast Guard or U.S. Customs data could provide a ready cross check for which vessels would require a pilot.

SENATOR LINCOLN asked how much of the \$102,000 in new revenue might come from civil fines.

REPRESENTATIVE DAHLSTROM said they identified about 25 vessels in the 65 foot to 175 foot range that will probably visit the state and used that information to come up with the anticipated fees. She opined that the revenue generated would be greater than projected.

MR. WINTER said he understood the revenue would come from the projected waiver fees. If the system works there wouldn't be any fines.

CHAIR COWDERY asked for the will of the committee.

SENATOR WAGONER asked that the record reflect that the committee substitute \C version was adopted as the working document. The first motion to amend the committee substitute was withdrawn and Senator Lincoln's amendment #1 was inserted into (b) on page 3; it did not remove or substitute language in (b).

SENATOR WAGONER made a motion to move SCS CSHB 251(TRA) from committee with individual recommendations and attached fiscal notes. There being no objection, it was so ordered.

SB 224-LOWER DWI FOR MINORS TO .02

CRYSTAL MOORE, staff to sponsor John Cowdery, explained SB 224 would lower the level of intoxication for operation of a motor vehicle, aircraft or watercraft to .02 percent for persons less than 21 years of age. Current Alaska law sets the limit at .08 and the sponsor believes that is too high for those who are not old enough to drink legally.

CHAIR JOHN COWDERY added there have been a number of tragic accidents associated with alcohol and teens and because a driver's license is very precious to a young driver, this may be helpful.

TROOPER MATT LEVEQUE from the Department of Public Safety testified via teleconference to support SB 224 and advised the department had not developed a fiscal note.

CHAIR COWDERY said there would be associated costs. "Justice is always expensive."

JAUNITA HENSLEY with the Department of Public Safety said the bill would have a fiscal impact on the state, but they were still in the process of evaluating all the costs. The Alaska

State Troopers, law enforcement, the court system, Department of Corrections, and juvenile justice would be impacted.

CHAIR COWDERY said he realized the bill wouldn't make it through the system this year.

SENATOR THOMAS WAGONER asked if states with this type of law found such legislation to be a deterrent.

MS. MOORE reported that Maryland has seen an 11 percent decrease in minors drinking and driving since they passed the zero tolerance law and 12 other states have seen a 16 percent decrease in single car accidents.

SENATOR GEORGIANNA LINCOLN stated she had a number of questions and asked if he intended to hold the bill in committee or move it that day.

CHAIR COWDERY replied it was up to the committee, but it's an "up front" bill and it would be heard in the State Affairs Committee next.

SENATOR LINCOLN said she didn't serve on that committee and would therefore proceed as though this was her last opportunity to ask questions.

She asked Trooper Leveque if he had Alaska statistics regarding the number of minors that have had major accidents as a result of a .02 level of intoxication.

TROOPER LEVEQUE said they didn't have those statistics at this time.

CHAIR COWDERY announced he would hold the bill in committee for the rest of the session.

SENATOR LINCOLN expressed appreciation and asked to hear actual numbers rather than percentages when the bill was heard next.

MS. HENSLEY said they would be working to formulate the numbers.

CHAIR COWDERY held SB 224 in committee.

There being no further business to come before the committee, Chair Cowdery adjourned the meeting at 12:07 pm.