

**ALASKA STATE LEGISLATURE**  
**SENATE JUDICIARY STANDING COMMITTEE**

March 29, 2005

10:38 a.m.

**MEMBERS PRESENT**

Senator Ralph Seekins, Chair  
Senator Charlie Huggins, Vice Chair  
Senator Gene Therriault  
Senator Hollis French  
Senator Gretchen Guess

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 106

"An Act relating to sale, possession, and delivery of certain substances and precursors used in the unlawful manufacture of methamphetamine."

HEARD AND HELD

SENATE BILL NO. 67

"An Act relating to claims for personal injury or wrongful death against health care providers; and providing for an effective date."

MOVED CSSB 67(JUD) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 106

SHORT TITLE: SALE OF METHAMPHETAMINE AND PRECURSORS

SPONSOR(s): SENATOR(s) GUESS

02/14/05	(S)	READ THE FIRST TIME - REFERRALS
02/14/05	(S)	JUD, FIN
03/29/05	(S)	JUD AT 10:30 AM BUTROVICH 205

BILL: SB 67

SHORT TITLE: CLAIMS AGAINST HEALTH CARE PROVIDERS

SPONSOR(s): SENATOR(s) SEEKINS

01/21/05	(S)	READ THE FIRST TIME - REFERRALS
01/21/05	(S)	L&C, JUD
02/08/05	(S)	L&C AT 1:30 PM BELTZ 211
02/08/05	(S)	Heard & Held
02/08/05	(S)	MINUTE (L&C)
03/01/05	(S)	L&C AT 1:30 PM BELTZ 211
03/01/05	(S)	Moved SB 67 Out of Committee
03/01/05	(S)	MINUTE (L&C)
03/02/05	(S)	L&C RPT 3DP 1DNP
03/02/05	(S)	DP: BUNDE, SEEKINS, STEVENS B
03/02/05	(S)	DNP: ELLIS
03/08/05	(S)	JUD AT 8:30 AM BUTROVICH 205
03/08/05	(S)	Heard & Held
03/08/05	(S)	MINUTE (JUD)
03/17/05	(S)	JUD AT 8:30 AM BUTROVICH 205
03/17/05	(S)	Heard & Held
03/17/05	(S)	MINUTE (JUD)
03/22/05	(S)	JUD AT 8:30 AM BUTROVICH 205
03/22/05	(S)	Heard & Held
03/22/05	(S)	MINUTE (JUD)

**WITNESS REGISTER**

Mr. Bill Hogan  
 Alaska Physicians and Surgeons  
 No address provided  
**POSITION STATEMENT:** Commented on SB 67

Mr. Don Bullock, Attorney  
 Legislative Affairs Agency  
 Alaska State Capitol  
 Juneau, AK 99801-1182  
**POSITION STATEMENT:** Commented on SB 67

Mr. Paul Carr  
 North Slope Borough Police Department  
 PO Box 470  
 Barrow, AL 99723  
**POSITION STATEMENT:** Testified in support of SB 106

Mr. Paul Holland  
 Fairbanks, AK  
**POSITION STATEMENT:** Testified in support of SB 106

**ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Judiciary Standing Committee meeting to order at [10:38:23 AM](#). Present were Senators Hollis French, Charlie Huggins, Gene Therriault, Gretchen Guess, and Chair Ralph Seekins.

**SB 67-CLAIMS AGAINST HEALTH CARE PROVIDERS**

[10:38:23 AM](#)

CHAIR SEEKINS announced SB 67 to be up for consideration. He asked committee members to submit any proposed amendments. He advised public testimony was closed.

SENATOR GRETCHEN GUESS asked whether there was a definition of healthcare providers in the Alaska Statutes.

CHAIR SEEKINS announced a brief recess while his staff checked for a definition.

[10:46:00 AM](#)

CHAIR SEEKINS read aloud the definition of healthcare providers:

Our intent is to cover doctors, nurses, nurse practitioners, physicians assistants, all healthcare providers including those that are named here, acupuncturists, audiologists, speech pathologists, chiropractors, dental hygienists, dentists, dispensing opticians, podiatrists, naturopaths, optometrists, pharmacists, physical or occupational therapists, psychologists, psychological associate, hospitals. There is a definition and it is under AS 09.55.530-560.

[10:47:46 AM](#)

SENATOR HOLLIS FRENCH commented one issue is the small market of insurance providers in the State of Alaska. He suggested the committee look at other like-sized markets for comparison.

CHAIR SEEKINS voiced the primary concern is Alaska has two insurance providers, both of which are mutual companies. If one of the two companies leaves Alaska, the fear is the other will not pick up the physicians left behind. The main concern is the shrinking number of providers.

[10:50:30 AM](#)

SENATOR GENE THERRIAULT noted that hedonic damages are separated from non-economic damages in Section 2, subsection (c).

CHAIR SEEKINS agreed it appeared redundant.

SENATOR THERRIAULT asked whether there was a reason for the separation.

[10:51:47 AM](#)

CHAIR SEEKINS asked Mr. Bill Hogan whether the wording should be "other" hedonic damages.

[10:52:25 AM](#)

MR. BILL HOGAN, Alaska Physicians and Surgeons, agreed the wording sounded redundant. He said he is not sure of the distinction between "hedonic damages" and "loss of enjoyment of life."

CHAIR SEEKINS asked whether the intent of the Alaska Physicians and Surgeons group was to limit damages for the occurrences listed in Section 2, subsection (c).

MR. HOGAN answered correct.

CHAIR SEEKINS asked Mr. Hogan if he would object to deleting "but may not include hedonic damages" on Page 2, line 3.

MR. HOGAN answered no.

[10:53:21 AM](#)

SENATOR THERRIAULT suggested the drafter chose to use the language for a reason.

CHAIR SEEKINS called a brief at ease at [10:54:03 AM](#) in order to contact the drafter for comment on the chosen verbiage.

CHAIR SEEKINS reconvened the meeting at [11:01:14 AM](#).

CHAIR SEEKINS asked drafter Don Bullock to explain Section 2, subsection (c).

MR. DON BULLOCK, attorney, Legislative Affairs Agency, explained "hedonic damages" means life is not what it used to be. Hedonic damages would be different than "pain and suffering" if the case involved a person suffering from a brain injury that precluded them from feeling pain. It is difficult to put a value on hedonic damages since it is a "quality of life" issue rather than a "pain and suffering" issue. The definition in SB 67 is out of Black's Law Dictionary. It is an additional type of damage from those listed in Section 2, subsection (c).

[11:03:41 AM](#)

SENATOR FRENCH suggested they modify the current system to bring assurance to both the insurance industry and the practitioners. He proposed they bring the cap down slowly to reach a happy medium.

[11:05:20 AM](#)

CHAIR SEEKINS asserted there is no restriction on a person recovering for actual damages. SB 67 speaks of non-economic damages.

[11:05:56 AM](#)

SENATOR FRENCH proposed a conceptual amendment to change the caps to \$350,000 and \$850,000. Children and old people would suffer most from SB 67 because they cannot demonstrate a large earning capacity. He suggested the committee revisit the changes next session to see whether they are working.

[11:07:09 AM](#)

SENATOR THERRIault objected. He maintained the conceptual amendment would fix nothing.

CHAIR SEEKINS agreed.

SENATOR FRENCH disagreed. He stated it would lower total exposure by a significant amount. Under his proposal, any million-dollar jury case would be reduced by 15 percent. His suggestion would show the Legislature is working toward a solution that will result in a reduction in total awards.

[11:08:50 AM](#)

SENATOR GRETCHEN GUESS asked Senator Therriault to expound on why he feels the split cap is not working.

CHAIR SEEKINS offered to answer the question. The Legislature should deal with the definition of "severe" as it applies to many liabilities. Currently severe is defined as anything that can be embarrassing. It is easy to claim a case belongs in the higher cap category. The intent with medical malpractice issues is to put a hard cap into place.

[11:11:18 AM](#)

SENATOR GUESS stated the Bethel case had more to do with the jury making the decision of severity. She voiced the problem was in defining severe personal impairment or severe disfigurement.

CHAIR SEEKINS agreed and stated the Supreme Court provided the jury with the definition.

SENATOR GUESS added it is difficult to determine where the middle ground should be in regards to insurance claim caps. She voiced support for Senator French's proposed amendment.

[11:12:45 AM](#)

CHAIR SEEKINS asked for a roll call and the proposed conceptual amendment failed 3-2 with Senators Huggins, Therriault and Chair Seekins dissenting.

[11:13:13 AM](#)

SENATOR CHARLIE HUGGINS moved CSSB 67(JUD) from committee with individual recommendations and attached fiscal note(s).

SENATOR FRENCH objected. He asserted CSSB 67(JUD) would deny benefits to the most seriously injured Alaskans.

[11:14:18 AM](#)

Roll call moved CSSB 67(JUD) out of committee by a 3-2 vote with Senators French and Guess dissenting.

Chair Seekins called a brief recess at [11:14:46 AM](#).

Chair Seekins reconvened the meeting at [11:21:02 AM](#).

**SB 106-SALE OF METHAMPHETAMINE AND PRECURSORS**

[11:21:04 AM](#)

CHAIR RALPH SEEKINS announced SB 106 to be up for consideration.

[11:21:21 AM](#)

SENATOR GRETCHEN GUESS introduced a committee substitute (CS).

SENATOR GENE THERRIAULT moved to adopt Version \I. Hearing no objections, the motion carried.

SENATOR GUESS explained the changes within the CS. The intent of SB 106 is to crack down on people who buy ingredients for cooking methamphetamines (meth) without inhibiting people who are legitimate users of the ingredients. Section 1 adds possession and delivery of the makings of meth. A new Section 5 is added to explain the slight difference between organic and non-organic solution. Section 2 clarifies that possession of more than nine grams of Sudafed is prima facie evidence of intention to make meth. There is an exemption for people with a valid prescription.

[11:23:54 AM](#)

SENATOR THERRIAULT asked the amount of nine grams of Sudafed.

SENATOR GUESS explained nine grams would be equivalent to 375 pills.

[11:24:54 AM](#)

SENATOR GUESS continued Section 4 identifies the chemicals used to create meth. Section 5 discusses dispensing and the identification check, and it adds a local option avenue for mandatory reporting.

[11:26:39 AM](#)

SENATOR GUESS explained SB 106 allows for lodge owners to purchase a case of Sudafed for summer clients without creating undue suspicion.

[11:29:14 AM](#)

SENATOR GUESS advised the committee she is working with the drafter to address the issue of putting ingredient products behind the counter and also the issue of keeping the logbook.

[11:32:05 AM](#)

SENATOR THERRIAULT asked about the availability of government issued identification in rural areas.

SENATOR GUESS advised she would research and get back to the committee.

SENATOR HOLLIS FRENCH made a comment regarding mail order to rural areas.

CHAIR SEEKINS expressed an affinity against putting retailers in jeopardy.

[11:35:46 AM](#)

SENATOR FRENCH said Oklahoma has proven restriction of meth ingredients provides a handle on the meth problem. However, he agreed that lawful use of the ingredients should be protected.

[11:37:05 AM](#)

CHAIR SEEKINS expressed a preference for a second indicator in order to have prima facie evidence.

[11:39:25 AM](#)

SENATOR THERRIAULT asked Senator Guess the problems Alaska should anticipate with SB 106.

SENATOR GUESS indicated she did not know of any.

CHAIR SEEKINS wondered whether a person could order Sudafed online.

SENATOR GUESS specified the supplier would have to check identification and keep a log.

[11:41:53 AM](#)

MR. PAUL CARR, Police chief, North Slope Borough, testified in support of SB 106. He contended meth is an epidemic and the use of it is causing crime to escalate. He said he is familiar with the use of Sudafed reduction in the making of meth.

SENATOR FRENCH asked Mr. Carr if they were busting meth labs or seeing an increase in meth-related crimes.

MR. CARR said they have not busted a lab yet but have heard it is being made locally.

[11:43:51 AM](#)

MR. PAUL HOLLAND testified in support of SB 106. Meth labs are a large problem in Fairbanks.

[11:48:37 AM](#)

MR. BARRY CHRISTENSON, Alaska Pharmacists Association, testified in support of SB 106. He said limiting single source ingredients such as Sudafed greatly limits the problem. Combination products are hard to cook down into meth.

[11:51:05 AM](#)

SENATOR FRENCH asked for an example of a combination product.

MR. CHRISTENSEN responded Tylenol Cold or Comtrex.

SENATOR CHARLIE HUGGINS asked Mr. Christensen his opinion of people obtaining supplies from outside the state.

MR. CHRISTENSEN said he would prefer to see a federal law since the states are setting laws differently. Oklahoma has gone the extreme by making the purchase of Sudafed a pharmacy-only transaction, which is not geographically practical for Alaskans. Stores who monitor the selling of ingredients are negatively affecting the creation of meth labs. Sudafed is still available online at this point.

11:53:43 AM

CHAIR SEEKINS held SB 106 in committee.

There being no further business to come before the committee,  
Chair Seekins adjourned the meeting at 11:55:30 AM.