

**ALASKA STATE LEGISLATURE**  
**HOUSE SPECIAL COMMITTEE ON ECONOMIC DEVELOPMENT, INTERNATIONAL**  
**TRADE AND TOURISM**

April 17, 2007

5:07 p.m.

**MEMBERS PRESENT**

Representative Mark Neuman, Chair  
Representative Carl Gatto  
Representative Kyle Johansen  
Representative Vic Kohring  
Representative Bob Lynn  
Representative Andrea Doll

**MEMBERS ABSENT**

Representative Mike Doogan

**OTHER LEGISLATORS PRESENT**

Representative Lindsey Holmes

**COMMITTEE CALENDAR**

HOUSE BILL NO. 217

"An Act relating to required onboard disclosures and displays about tours, flightseeing operations, other shoreside activities, and visitors bureaus; and providing for an effective date."

- MOVED CSHB 217(EDT) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HB 217

SHORT TITLE: TOURISM DISCLOSURES AND NOTICES

SPONSOR(S): REPRESENTATIVE(S) HOLMES

03/22/07	(H)	READ THE FIRST TIME - REFERRALS
03/22/07	(H)	EDT, JUD
04/03/07	(H)	EDT AT 5:30 PM CAPITOL 106
04/03/07	(H)	Heard & Held
04/03/07	(H)	MINUTE(EDT)
04/10/07	(H)	EDT AT 5:00 PM BARNES 124
04/10/07	(H)	Heard & Held
04/10/07	(H)	MINUTE(EDT)

04/17/07

(H)

EDT AT 5:00 PM BARNES 124

**WITNESS REGISTER**

REPRESENTATIVE LINDSEY HOLMES, Member  
Alaska State Legislature  
Juneau, Alaska

POSITION STATEMENT: Testified as the sponsor of HB 217.

ROB SCHEER, Owner  
Great Alaska Lumberjack Show and Experience Alaska Tours  
Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 217.

PATRICIA SCHAUGHNESSY, Employee  
Experience Alaska Tours  
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

CARSTENS JASPER, Employee  
Experience Alaska Tours  
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

CHUCK SLAGLE, Owner  
Baranof and Company  
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

STACEY HUNT, Employee  
Great Alaska Lumberjack Show  
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

JANICE GARCIA, Employee  
Great Alaska Lumberjack Show  
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

JOHN DUNLAP, Manager  
Allen Marine Tours  
Allen Marine Inc.  
Ketchikan, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

KARI ERICKSON, Division Manager  
Gray Line of Alaska

Ketchikan, Alaska

POSITION STATEMENT: Testified in support of HB 217.

DOT WILSON, Owner

Coastal Helicopters Inc.

Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

CHIP THOMA

Juneau, Alaska

POSITION STATEMENT: Testified during the hearing on HB 217.

### **ACTION NARRATIVE**

**CHAIR MARK NEUMAN** called the House Special Committee on Economic Development, International Trade and Tourism meeting to order at [5:07:44 PM](#). Representatives Kohring, Lynn, Johansen, Doll, and Neuman were present at the call to order. Representative Gatto arrived as the meeting was in progress. Representative Holmes was also in attendance.

### HB 217-TOURISM DISCLOSURES AND NOTICES

[5:08:15 PM](#)

CHAIR NEUMAN announced that the only order of business would be HOUSE BILL NO. 217, "An Act relating to required onboard disclosures and displays about tours, flightseeing operations, other shoreside activities, and visitors bureaus; and providing for an effective date."

[5:08:25 PM](#)

REPRESENTATIVE JOHANSEN moved CSHB 217, 25-LS0696\L. There being no objection, Version L was adopted.

[5:09:42 PM](#)

REPRESENTATIVE LINDSEY HOLMES, Alaska State Legislature, informed the committee that previous testimony on HB 217 raised some concerns about the language of the bill. In an effort to preserve the language of the Alaska Cruise Ship Initiative (initiative), HB 217 created an "and/or" option. She said the Committee Substitute corrects that situation by setting up one set of criteria that is applicable to all tours that are sold. In addition, it creates a three or four part disclosure that reveals: that the on-board sale is a paid promotion; that other

alternatives are available for a lower price at the port of call; and the address, website, and telephone number of the visitor's bureaus in future ports of call with a list of tour operators. Representative Holmes continued to explain that if the commission paid to the cruise ship exceeds 33 percent of the total cost of the excursion, an additional disclosure of that fact is required. This change, she said, will protect proprietary information of local Alaska businesses and will set a threshold of what a consumer might conclude is the reasonable and expected cost of a commission.

[5:13:21 PM](#)

CHAIR NEUMAN remarked:

There was one more change from what had been probably a sponsor substitute. And that would have removed language that is in the initiative, and in trying to reach a boundary between all the parties concerned. ... That has to do with the words that shall "...and shall result in a penalty of not more than \$100 for each violation." That is in Sec. C, of the cruise ship regulation disclosure in 45.50.474, so that's been retained in there....

CHAIR NEUMAN indicated that he had discussed the percentage of the threshold with the sponsor and the drafter of the original initiative. He pointed out that over one-half of the tourist related businesses in the state have five or less employees and that he was searching for an accord for all parties. He then referred to the change on page 1, line 14, that replaced the words "all ports of call" with "each future port of call."

[5:16:17 PM](#)

REPRESENTATIVE LYNN asked whether there would be a definition in the statute of "paid promotion."

[5:16:53 PM](#)

REPRESENTATIVE HOLMES replied that the language came from the initiative. She said that she would consider a change to "commission."

[5:17:17 PM](#)

CHAIR NEUMAN indicated that the definition of "paid promotion" is in statute.

[5:17:53 PM](#)

REPRESENTATIVE LYNN inquired as to whether the sponsors of the initiative are comfortable with [Version L].

[5:18:27 PM](#)

REPRESENTATIVE HOLMES responded that she has not been able to contact the sponsors and that she does not believe that they are comfortable with Version L. She added that she did not want to speak for them.

[5:18:38 PM](#)

CHAIR NEUMAN added that Sec. 2 was in the original language of the initiative; thereby, the original language was retained in Version L.

[5:19:12 PM](#)

REPRESENTATIVE LYNN asked whether Representative Holmes agreed with Representative Neuman's statement.

REPRESENTATIVE HOLMES expressed her understanding, from discussions with the original initiative sponsors, that previous to the passage of the initiative, a violation of disclosure laws was considered an Alaska Unfair Trade Practices Act violation. The initiative unintentionally added language that lowered the penalty to \$100 for each violation. Representative Holmes continued to explain that Version K reinstated the unfair trade practices act penalty; however, Version L reinstates the original language of the initiative and again sets the penalty at \$100 for each violation.

[5:20:33 PM](#)

REPRESENTATIVE LYNN asked again whether Representative Holmes felt that HB 217 reasonably reflects the intent of the initiative sponsors and of the voters. He said, "Are we violating the intent of that initiative, if we were to pass this out?"

[5:21:13 PM](#)

REPRESENTATIVE HOLMES replied that the initiative sponsors indicated that the language of the initiative "is a floor, not a ceiling." The Alaska Supreme Court has indicated that a change can be made to the initiative unless there is a change of direction. The intent of HB 217 is to keep strong disclosure provisions and take care of unintended consequences. She acknowledged that the sponsors have not read Version L.

[5:22:50 PM](#)

CHAIR NEUMAN reiterated that the original ballot language is in Version L.

[5:23:05 PM](#)

REPRESENTATIVE GATTO said that the original sponsor is out of town. He expressed his belief that the original sponsor would not accept the change of the percentage of the threshold from 25 percent to 33 percent. Representative Gatto said that a commission of 33 percent of the total cost of a tour is not a reasonable percentage and that he would not support Version L.

[5:24:01 PM](#)

CHAIR NEUMAN requested that Representative Holmes explain how the percentage is determined.

[5:24:21 PM](#)

REPRESENTATIVE HOLMES explained that if a tour costs \$100, and the commission is \$33 or less, the disclosure would be that a paid promotion is being paid. If a tour costs \$100 and the commission was \$34 or higher, that commission would need to be disclosed as a paid promotion of 33 percent or greater.

[5:25:16 PM](#)

REPRESENTATIVE DOLL expressed her concern about the possible conflict with unfair trade practices statutes. She suggested that HB 217 should conform to existing statutes.

[5:26:31 PM](#)

REPRESENTATIVE HOLMES informed the committee that existing statutes for penalties for unfair trade practices are to apply under Version L, and they allow for penalties of up to three times damages or \$500, whichever is greater. Existing statutes

also allow for the attorney general to file suit. Those penalties, she said are for a minimum of \$1,000 and a maximum of \$25,000 per occurrence. Representative Holmes suggested that there is confusion over whether the penalties in the initiative override those contained in the unfair trade practices act and that a legal analysis may be needed.

[5:27:43 PM](#)

CHAIR NEUMAN said that the legal aspect of HB 217 could be studied by the House Judiciary Standing Committee.

[5:28:04 PM](#)

REPRESENTATIVE GATTO noted that the majority of the discussion has been from the perspective of the vendor and that he wanted to hear from the consumer. He suggested that the 33 percent commission cost is infuriating.

[5:29:45 PM](#)

REPRESENTATIVE JOHANSEN referred to page 2, line 1, and asked for the reason flight seeing operations are specified.

[5:30:28 PM](#)

REPRESENTATIVE HOLMES replied that "...tours, flightseeing operations, or other shoreside activities..." is the original language of the initiative.

[5:30:47 PM](#)

CHAIR NEUMAN invited public testimony.

[5:31:21 PM](#)

ROB SCHEER, owner, Great Alaska Lumberjack Show and Experience Alaska Tours, informed the committee that he is concerned by the member's comments regarding the value of the commission. Mr. Scheer said that the commission pays for a very extensive eight-month marketing campaign provided by the cruise lines that market to millions of consumers around the world. Mr. Scheer stated that his business model is built to achieve success for his tour, which has happened after an investment of millions of dollars in the Ketchikan community. He said the commissions are proprietary information and should not be disclosed in any manner. Mr. Scheer expressed his support of HB 217 as a

beginning step to change the initiative that was enacted to hurt the cruise lines. He suggested that the committee should research the "free market abusiveness" model of the tourism industry. Mr. Scheer concluded by saying that his business employs 70 workers and his customers support his community's economy with millions of dollars.

[5:35:08 PM](#)

PATRICIA SCHAUGHNESSY informed the committee that she is an employee of Experience Alaska Tours. She said that the cruise line provides advertising and booking services that extend beyond a paid promotion, and that these are services her company can not afford. In addition, she pointed out that if she hired an advertising firm, her contract with them would be private. Ms. Schaughnessy concluded by saying that the commission is reflected in the total price of the tour and the consumer makes his/her decision based on the total price.

[5:36:51 PM](#)

CHAIR NEUMAN asked whether a commission of any percentage is acceptable.

[5:37:12 PM](#)

MS. SHAUGHNESSY answered yes.

[5:37:29 PM](#)

CHAIR NEUMAN further asked whether a disclosure of any amount is acceptable.

[5:37:46 PM](#)

MS. SHAUGHNESSY answered no.

[5:37:54 PM](#)

CARSTENS JASPER informed the committee that he is an employee of Experience Alaska Tours. Mr. Jasper expressed his belief that visitors to Alaska are very satisfied with the experiences provided by the Alaskan tourism industry. He noted that other industries have large mark-up margins and the cost of products and the infrastructure to support them must be taken into consideration. He said that this disclosure requirement could apply to any business.



[5:39:47 PM](#)

REPRESENTATIVE DOLL asked at what point should there be regulation of unfair business practices.

[5:40:17 PM](#)

MR. JASPER opined that dissatisfaction with the industry or an outcry from consumers would call for regulation; in contrast, his tours often have repeat customers. He stressed that tourism is the only industry that is thriving in Southeast.

[5:41:18 PM](#)

CHUCK SLAGLE, owner, Baranof and Company, informed the committee that he has been selling tours through the cruise industry since 1981. Since then, the market has grown dramatically and the cruise lines have lowered prices to attract business. Mr. Slagle pointed out that customers choose the tours through the cruise lines, but before the cruise begins. He said that 80 percent of cruise passengers have searched for tours and cruise lines on the World Wide Web (internet), and are aware of the 350 tours available in Southeast. The internet creates the free market for consumers. Mr. Slagle stressed that tour operators realize that the commission to the cruise lines is cheaper than establishing their own sales staff and advertising programs. The best choice for his company is to use the cruise industry for marketing its tours.

[5:44:10 PM](#)

REPRESENTATIVE DOLL asked how many cruise ships with which Mr. Slagle negotiates.

[5:44:48 PM](#)

MR. SLAGLE answered that he works with all of the cruise lines. In fact, 80 to 90 percent of his customers are passengers of Norwegian Cruise Line, Carnival Cruise Line, and Regency Cruises.

[5:45:07 PM](#)

REPRESENTATIVE DOLL asked whether each contract is for a similar price.

5:45:31 PM

MR. SLAGLE responded that he does not have a contract and the commissions vary between cruise lines. In answer to questions, Mr. Slagle explained that he informs the cruise lines of his wholesale price and they add the commissions. He further explained that most commissions are similar, but not identical, in price.

5:45:47 PM

REPRESENTATIVE GATTO observed that cruise passengers are very educated and savvy, and asked Mr. Slagle whether voters are, also.

5:46:22 PM

MR. SLAGLE replied no; voters are uninformed and uneducated about the tourism industry.

5:47:20 PM

STACEY HUNT, employee, Great Alaska Lumberjack Show, stated that the only person to have detailed information about a company's profit margin is a stockholder or investor. Ms. Hunt said that posting profit margins with tour information will force cruise passengers on vacation to think about money; thereby, cheapening their Alaskan experience. She said that the tourism consumer has a choice of activities.

5:48:34 PM

JANICE GARCIA, employee, Great Alaska Lumberjack Show, expressed her belief that companies who have a relationship with the cruise ships have hired them as their advertising and marketing agents. Ms. Garcia stated that the disclosure of commissions damages tour companies relationships with the cruise lines and makes the guests uncomfortable. She suggested that the passengers would be confused by the breakdown of the tour's cost.

5:49:52 PM

JOHN DUNLAP, Manager, Allen Marine Tours, Allen Marine Inc., informed the committee that Allen Marine Tours employs 200 people during the summer. Allen Marine Inc., also operates a shipyard in Sitka, and has earned its success following 40 years

of business in Southeast Alaska. Mr. Dunlap expressed his belief that his fellow Alaskans voted on the head tax provision of the initiative and did not understand the disclosure provision.

[5:51:35 PM](#)

REPRESENTATIVE GATTO asked whether Mr. Dunlap agreed with Mr. Slagle that the voters were unaware of the provisions of the initiative.

[5:52:00 PM](#)

MR. DUNLAP affirmed that he felt that the voters did not understand the initiative, except for the assessment of the head tax.

[5:52:29 PM](#)

REPRESENTATIVE GATTO asked why Mr. Dunlap did not take a poll in Ketchikan to support his testimony.

[5:53:00 PM](#)

KARI ERICKSON, Division Manager, Gray Line of Alaska, stated that her company hires forty employees seasonally, and four year around. She noted that her company solicits comments from guests and there are few complaints about the price of tours. Ms. Erickson expressed her dissatisfaction with the initiative and urged the committee to support HB 217.

[5:54:37 PM](#)

REPRESENTATIVE KOHRING indicated that constituents in his district have contacted him, have confirmed that they knew about the provisions, and do not support changes to the initiative.

[5:55:37 PM](#)

MS. ERICKSEN stated that she has polled a lot of people on the initiative and was told by voters that the smaller issues could be easily changed.

[5:56:13 PM](#)

REPRESENTATIVE LYNN asked what kind of poll was taken.

[5:56:26 PM](#)

MS. ERICKSEN responded that she asked friends, neighbors, and those who are impacted by the initiative in her community.

[5:56:41 PM](#)

REPRESENTATIVE LYNN asked whether there has been any testimony from an independent tour operator who does not contract with the cruise industry.

[5:57:29 PM](#)

DOT WILSON, owner, Coastal Helicopters Inc., stated that her business does not contract with the cruise industry. Ms. Wilson stressed that she supports free enterprise.

[5:57:51 PM](#)

CHIP THOMA informed the committee that he is a supporter of initiative. Mr. Thoma expressed his belief that the sponsors of the initiative have not reviewed Version L, and are not aware of the increase of the threshold percentage from 25 percent to 33 percent. He stated that he supported the 25 percent figure. He said that he also agrees with earlier testimony about the availability of tour information on the internet, and said that internet access may be a solution to the problem. In the future, he expects that the number of tours sold on the ships will be about 10 percent. Mr. Thoma pointed out that, at this time, \$250 million in shoreside tours are sold in northern Southeast per season. He concluded by saying that [the disclosure] is information that consumers need.

[6:00:52 PM](#)

CHAIR NEUMAN observed that negotiating improvements to HB 217 has been very difficult due to conflicting testimony from interested parties.

[6:02:27 PM](#)

MR. THOMA stated that the sponsors of the original initiative are speaking for the passengers on the ship and for the alternative tour operators who do not have their tours sold by the ships.

[6:02:55 PM](#)

CHAIR NEUMAN asked whether there is competition amongst all of the tour operators for business with the cruise ships.

[6:03:16 PM](#)

MR. THOMA said, "Very little." He compared the situation to a limited entry program.

[6:03:22 PM](#)

REPRESENTATIVE GATTO asked about the percentage of tours sold on the ships as compared with the percentage of tours that are not pre-sold. This information, he said, would indicate to the committee the scope of the influence of the disclosure requirements.

[6:04:16 PM](#)

MS. WILSON informed the committee that pre-sold tours for her business are by direct inquiry or through travel agents.

REPRESENTATIVE JOHANSEN asked whether Ms. Wilson knows the profit margins of the travel agents.

MS. WILSON answered no.

[6:05:19 PM](#)

CHAIR NEUMAN announced that public testimony was closed.

[6:05:26 PM](#)

REPRESENTATIVE KOHRING expressed his empathy with small businesses who are required to divulge proprietary information. He suggested that initiatives must be crafted carefully in the future to avoid unintended consequences.

[6:06:45 PM](#)

CHAIR NEUMAN reminded the committee that other initiatives have been amended and that the legislative body is responsible for the process of discovery.

[6:07:37 PM](#)

REPRESENTATIVE JOHANSEN stated that the disclosure required by the initiative is unfair for businesses. He noted that in the marketplace, the total price should dictate the success of a product or service. He opined that HB 217 eases the impact on small business and that he will support the Committee Substitute for HB 217.

6:09:02 PM

REPRESENTATIVE GATTO reminded the committee of the failure of the Gas Reserves Tax Initiative. He said when other ballot measures have failed; the legislature never considered passing a bill for the same purpose. He remarked:

Even if you feel, that this bill was presented to the public as an initiative, not the bill, but the initiative, was incorrectly voted on, my personal feelings, [the] public has a right to be wrong. ... I don't know that the public is ever wrong; they just are allowed to make votes.... It is the state's citizens that voted for the initiative. ... But in order to do what they asked us to do, we have a cruise ship head tax, and most everyone agrees that's okay, [we have] an Ocean Ranger program, which was the second big thing in the bill, and now it starts to deteriorate. ... I will never say that the public did not read far enough. ... I have trouble saying we need to, we need to meddle with the public's vote. ... These bills are not enforcing what the public asked for, they are altering ... I am not about to overturn what the public asked for.

6:13:02 PM

REPRESENTATIVE DOLL stated her belief that some regulation is needed in a situation where there is a growing monopoly. She noted that the anti-trust laws may have applied to this type of situation in the past. Representative Doll expressed her support for HB 217 and her understanding of the profit margins of business. She concluded that her support is for the compromise crafted to assist the small businesses.

6:15:18 PM

REPRESENTATIVE LYNN said that he must assume that the voters know what they are voting for. Each vote counts whether or not the voter has a complete understanding of a long and complicated

issue. He expressed his concern about the 33 percent threshold included in Version L. Representative Lynn said that he can address that issue in the House Judiciary Standing Committee.

[6:16:46 PM](#)

CHAIR NEUMAN agreed that this committee is the first stop for HB 217 and there has been a lot of work done with all of the parties concerned. He pointed out that this is the third hearing for the bill.

REPRESENTATIVE GATTO informed the committee that he had an amendment.

[6:18:47 PM](#)

CHAIR NEUMAN suggested that the amendment be offered in the House Judiciary Standing Committee since the initiative sponsors are out of town.

REPRESENTATIVE GATTO said that his amendment applies to page 2, line 14. He then read:

If the value paid by the business is a commission of more than ten percent, of any single sale, the disclosure shall also state that more than ten percent commission is being retained by the person or entity making the sale.

REPRESENTATIVE GATTO explained that his amendment has been accepted by the sponsor of HB 217.

[6:21:04 PM](#)

REPRESENTATIVE LYNN recommended that the sponsor of the bill offer the amendment in the proper form.

[6:21:30 PM](#)

CHAIR NEUMAN confirmed that the amendment was not offered to this committee.

[6:21:47 PM](#)

REPRESENTATIVE Johansen moved to report HB 217, Version L, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB

271(EDT) was reported out of the House Special Committee on Economic Development, International Trade and Tourism.

**ADJOURNMENT**

There being no further business before the committee, the House Special Committee on Economic Development, International Trade and Tourism meeting was adjourned at 6:23 p.m.