

**ALASKA STATE LEGISLATURE
HOUSE RESOURCES STANDING COMMITTEE**

March 14, 2008

1:05 p.m.

MEMBERS PRESENT

Representative Carl Gatto, Co-Chair
Representative Craig Johnson, Co-Chair
Representative Anna Fairclough
Representative Bob Roses
Representative Peggy Wilson
Representative Bryce Edgmon

MEMBERS ABSENT

Representative Paul Seaton
Representative David Guttenberg
Representative Scott Kawasaki

COMMITTEE CALENDAR

CONFIRMATION HEARING(S)

Big Game Commercial Services Board

Brenda Rebne - Anchorage

- CONFIRMATION(S) ADVANCED

Board of Game

Ted Spraker - Soldotna

- CONFIRMATION(S) ADVANCED

Alaska Commercial Fisheries Entry Commission

Frank Homan - Juneau

- CONFIRMATION(S) ADVANCED

SENATE BILL NO. 253

"An Act relating to the appointment of members of the Board of Game; and providing for an effective date."

- MOVED SB 253 OUT OF COMMITTEE

HOUSE BILL NO. 367

"An Act relating to the sale of raw milk and raw milk products."

- MOVED CSHB 367(RES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 253

SHORT TITLE: BOARD OF GAME

SPONSOR(S): SENATOR(S) HUGGINS

01/28/08 (S) READ THE FIRST TIME - REFERRALS
01/28/08 (S) RES
02/16/08 (S) RES AT 11:00 AM BUTROVICH 205
02/16/08 (S) Scheduled But Not Heard
02/18/08 (S) RES AT 3:30 PM BUTROVICH 205
02/18/08 (S) Moved SB 253 Out of Committee
02/18/08 (S) MINUTE(RES)
02/19/08 (S) RES RPT 6DP 1NR
02/19/08 (S) DP: HUGGINS, GREEN, MCGUIRE, STEVENS,
WAGONER, STEDMAN
02/19/08 (S) NR: WIELECHOWSKI
02/27/08 (S) TRANSMITTED TO (H)
02/27/08 (S) VERSION: SB 253
02/29/08 (H) READ THE FIRST TIME - REFERRALS
02/29/08 (H) STA, RES
03/05/08 (H) RES AT 2:00 PM BARNES 124
03/05/08 (H) -- MEETING CANCELED --
03/11/08 (H) STA RPT 3DP 3NR
03/11/08 (H) DP: JOHNSON, DOLL, ROSES
03/11/08 (H) NR: JOHANSEN, GRUENBERG, COGHILL
03/11/08 (H) STA AT 8:00 AM CAPITOL 106
03/11/08 (H) Moved Out of Committee
03/11/08 (H) MINUTE(STA)
03/14/08 (H) RES AT 1:00 PM BARNES 124

BILL: HB 367

SHORT TITLE: SALE OF RAW MILK PRODUCTS

SPONSOR(S): REPRESENTATIVE(S) NEUMAN

02/13/08 (H) READ THE FIRST TIME - REFERRALS
02/13/08 (H) RES, FIN
02/29/08 (H) RES AT 1:00 PM BARNES 124
02/29/08 (H) <Bill Hearing Postponed to Mon
03/03/08>
03/03/08 (H) RES AT 1:00 PM BARNES 124

03/03/08 (H) Heard & Held
03/03/08 (H) MINUTE(RES)
03/10/08 (H) RES AT 1:00 PM BARNES 124
03/10/08 (H) Heard & Held
03/10/08 (H) MINUTE(RES)
03/14/08 (H) RES AT 1:00 PM BARNES 124

WITNESS REGISTER

BRENDA REBNE, Appointee
to the Big Game Commercial Services Board
Department of Commerce, Community, & Economic Development
Anchorage, Alaska
POSITION STATEMENT: Testified as appointee to the Big Game
Commercial Services Board.

TED SPRAKER, Appointee
to the Board of Game
Alaska Department of Fish & Game (ADF&G)
Soldotna, Alaska
POSITION STATEMENT: Testified as appointee to the Board of
Game.

JODY SIMPSON, Staff
to Senator Charlie Huggins
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented the sponsor statement for SB 253
on behalf of Representative Huggins.

KRISTY TIBBLES, Executive Director
Board of Game
Boards Support Section
Alaska Department of Fish & Game (ADF&G)
Juneau, Alaska
POSITION STATEMENT: Supported SB 253.

REPRESENTATIVE MARK NEUMAN
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Testified as the sponsor of HB 367.

LOUIE FLORA, Staff
to Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information regarding a proposed amendment to HB 367.

Kristin Ryan, Director
Division of Environmental Health
Department of Environmental Conservation (DEC)
Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 367.

JOSEPH MCLAUGHLIN, MD, Acting Chief
Section of Epidemiology
Division of Public Health
Department of Health & Social Services (DHSS)

POSITION STATEMENT: Answered questions regarding HB 367.

ACTION NARRATIVE

CO-CHAIR CARL GATTO called the House Resources Standing Committee meeting to order at [1:05:47 PM](#). Representatives Edgmon, Fairclough, Wilson, Gatto, and Johnson were present at the call to order. Representative Roses arrived as the meeting was in progress.

CONFIRMATION HEARING(S):

Big Game Commercial Services Board
Board of Game
Alaska Commercial Fisheries Entry Commission

[1:05:57 PM](#)

CO-CHAIR GATTO announced that the first order of business would be the continuation of confirmation hearings for the appointment of Ms. Brenda Rebne to the Big Game Commercial Services Board and Mr. Ted Spraker to the Board of Game. [Testimony and questioning of Mr. Frank Homan, appointee to the Alaska Commercial Fisheries Entry Commission was completed on 3/12/08.]

CO-CHAIR GATTO first addressed the appointment of Ms. Brenda Rebne to the Big Game Commercial Services Board. He inquired about her position with Ahtna, Incorporated.

BRENDA REBNE, Appointee to the Big Game Commercial Services Board, Department of Commerce, Community, & Economic Development, stated she is Vice-President of Corporate Affairs for Ahtna, Incorporated. In response to further questions from Co-Chair Gatto, Ms. Rebne said the last three days [attending

her first meeting of the Big Game Commercial Services Board] have been very enlightening and were a good opportunity for her to gain an understanding of that particular user group. She said she believes there are nine members on the board: two landowners, two transporters, two guides, two from the general public, and one Board of Game representative. She confirmed she is one of the two landowners and the landowner she is representing is Ahtna, Incorporated. She said she is unsure who the other landowner member is, but she believes it is another Native corporation, although she is not absolutely positive.

CO-CHAIR GATTO, after ascertaining no one else wished to speak, closed public testimony in regard to Ms. Rebne's appointment to the Big Game Commercial Services Board.

[1:09:24 PM](#)

CO-CHAIR GATTO announced that the committee would next consider the appointment of Mr. Ted Spraker to the Board of Game. He asked Mr. Spraker to state why he wants to serve on the board.

TED SPRAKER, Appointee to the Board of Game, Alaska Department of Fish & Game, stated he was raised in and went to school in Wyoming where he completed a bachelor's degree in wildlife management and a master's degree in range management. He moved to Alaska in 1973 after completing his degrees and resides in Soldotna. He worked as a wildlife biologist for the Alaska Department of Fish & Game (ADF&G) for 28 years before retiring in 2002. He was first appointed to the Board of Game in 2003 and his recent re-appointment by Governor Palin is his third term. He served as vice-chair of the board for the past two years and is still in that position. He also serves as the Board of Game's representative on the Big Game Commercial Services Board and has done so for 3 years. He said wildlife management and working with the public has been his lifelong career and he enjoys the opportunity to work on both of these boards. He looks forward to continuing his service on both boards.

[1:12:23 PM](#)

REPRESENTATIVE FAIRCLOUGH requested Mr. Spraker to give an overview of why he thinks Ahtna, Incorporated is opposing his re-appointment and an overview of the composite of the board.

CO-CHAIR GATTO asked whether Mr. Spraker had a copy of Ahtna, Incorporated's letter [dated 3/10/08].

MR. SPRAKER responded he does not. However, he said knows the gist of the letter from talking to Ms. Rebne and from talking to the letter's author [Ken Johns, President/CEO of Ahtna, Incorporated] a month or so ago. Therefore, he thinks he is prepared to answer most questions.

[1:13:31 PM](#)

CO-CHAIR GATTO cited the following statements from the letter: "consistently promoted the non-subsistence utilization", "inability to understand the merits of customary and traditional use", and "is not capable of protecting the hunting and fishing rights of all Alaskan's".

MR. SPRAKER replied he met Mr. Johns in Glennallen where he worked as a wildlife biologist for four years beginning in 1974. Upon his re-appointment he was informed of Mr. John's opposition so he called Mr. Johns and they talked at length. Mr. Spraker specified:

We have a few differences. And one of the things that I am ... kind of afraid that he wants me to do - I am not sure afraid is the right term - I think Ken Johns looks at my position on the Board of Game, since I have known him for such a long time, that I would have been kind of the champion for a lot of the things that he wanted changed in Unit 13. And we ... discussed these issues and they all pretty much revolved around rural preference. And I ... did my best to try to explain to him that that is something the law does not ... allow us to do. We have a mandate on the Board of Game to strictly adhere to the state laws and we do that. And I can't be a champion for you or other folks in Ahtna to try to change this to rural preference. I was involved in a subcommittee for at least a couple years trying to sort out some of the problems we have of hunting caribou in Unit 13, which is the Glennallen area, the Ahtna Corporation area, and to be honest with you we've ... not made much for ... headway. One of the things that Mr. Johns and I really disagreed on was the Board of Game approved a calf for people that qualify for Tier II hunting of caribou in Unit 13. That eliminated Mr. Johns and he was very critical of the board's position and extremely critical of my position on voting for that. The vote was about 6-1. And, again, we discussed

this. My feelings were presented to him on my vote. I said that because the law requires that we look at the people that most need the resource, and are most dependent on the resource, and as a mainstay of their livelihood, that I could not understand how people that had incomes that allowed them to have cabins and airplanes and big motor homes and things like that could pass the red-face test on qualifying and needing a subsistence caribou. And I supported that proposal. Mr. Johns and I are friends. We have some clear differences. He is the CEO and I understand and respect his position. He has a lot of folks that look to him to change a lot of things to make them better and the Board of Game has not been as favorable as he ... wanted us to be and I think that's where the letter came from.

1:18:35 PM

REPRESENTATIVE FAIRCLOUGH said she thinks it is important to have a subsistence voice on the board as well as a voice from hunting and trapping. What is the composite today of both the boards on which you serve, she asked.

MR. SPRAKER outlined the composite of the [Board of Game] as being one member each from Wasilla, Anchorage, Sitka, Fairbanks, Fort Yukon, and Soldotna. He related that the member from Fort Yukon is Craig Fleener who is an Alaska Native with a master's degree in wildlife management. The Big Game Commercial Services Board has two Alaska Natives - Brenda Rebne and Raymond Stoney of Kiana.

1:20:02 PM

REPRESENTATIVE FAIRCLOUGH noted she is not so much looking for heritage as points of opinion. Is there a representative currently speaking to the subsistence issue loud enough to be heard and recognized by both boards and is there a hunting perspective, she asked. She said she thinks Mr. Spraker and Mr. Fleener speak to the biology and wildlife management issue.

MR. SPRAKER answered he thinks there is. All members are long-time Alaskans and Mr. Fleener has a strong background in subsistence. All members strive to support subsistence. He said he thinks [the Board of Game] has a very good record of supporting subsistence. There is a law the board deals with as far as the amount necessary for subsistence. [The board]

adheres to those very carefully when making decisions. Game Management Unit 13 is where the board seems to always get into trouble over subsistence. But when the rest of the state is looked at, he said he feels strongly that this board actually has a very good record of supporting and providing for subsistence.

[1:22:02 PM](#)

REPRESENTATIVE FAIRCLOUGH inquired whether the Big Game Commercial Services Board has a similar balance.

MR. SPRAKER responded the board has a fairly widespread balance. as explained by Ms. Rebne, there are guides, transporters, private landowners, at-large members, and two Alaska Natives. The board really looks forward to the comments and input from Ms. Rebne and Mr. Stoney. He said he supports Ms. Rebne and hopes she stays on the committee because she brings a new aspect to the committee. Everyone on the Big Game Commercial Services Board has worked toward getting more Alaska Natives involved in transporting and guiding. Very few Alaska Natives are currently involved in this industry. [The board] looks to these two individuals to be its guides as far as trying to break more Alaska Natives into this industry. He said he thinks this board is very well balanced and Ms. Rebne has already done an excellent job and learned quickly.

[1:23:56 PM](#)

REPRESENTATIVE FAIRCLOUGH reiterated she is not asking about an ethnic balance, but whether there is a balance in voices between commercial or sport hunting and subsistence.

MR. SPRAKER stated the Big Game Commercial Services Board has that balance; those issues are talked about.

[1:24:32 PM](#)

REPRESENTATIVE FAIRCLOUGH asked whether Mr. Spraker can state unequivocally that when something comes before him he will treat it in a manner that is fair and consistent with the law for Game Management Unit 13 and across Alaska.

MR. SPRAKER replied, "Without a doubt." He said he prides himself in trying to be as fair as possible and he reads to understand the law and the direction required by the law. He promised to continue to do his best.

[1:25:52 PM](#)

REPRESENTATIVE FAIRCLOUGH inquired whether Ms. Rebne could listen to all the issues brought before the Big Game Commercial Services Board and apply state law during her service.

MS. REBNE answered yes, she believes she can do that. The last three days [of board meetings] have been a very educational process, she noted. Understanding the regulations that apply to guides and transporters was very beneficial just in understanding that user group. She said she welcomes that opportunity and is quite capable of doing that.

[1:26:41 PM](#)

REPRESENTATIVE FAIRCLOUGH stated she supports the names submitted by the governor and has no qualms about recommending the individuals. They have different points of view and different vantage points from across the state, but healthy debate is good for laws.

REPRESENTATIVE ROSES echoed Representative Fairclough's sentiment. He said he does not want boards appointed where all members have the same opinion resulting in a rubber stamping process. He appreciates diversity and a diversity of opinion. He said he, too, will support forwarding the names of all three appointees.

[1:28:10 PM](#)

REPRESENTATIVE EDGMON asked whether Mr. Spraker supports HB 256, the governor's active game management bill.

MR. SPRAKER responded he strongly supports HB 256 and is pleased to support the governor in the effort she has made. She has made available the money and the staff to provide a tremendous amount of information to residents across the state regarding predator management. She has required the Board of Game members to go to different communities and rotary clubs to provide unbiased information about predator management. He said he supports eliminating the public's opportunity to bring forth initiatives because he does not like ballot box biology. The state would be much further ahead if the money used to fight these battles was applied to wildlife management. The state of Alaska has the most open and public opportunity in the country for individuals to come to the Board of Game and to work with

the 80 advisory committees. The state has the people, the places, and the system to accommodate everyone's needs and that is the way the system should be carried out.

[1:30:24 PM](#)

CO-CHAIR GATTO requested Ms. Rebne to state what she meant by her [3/12/08] comment, "I want to move forward."

MS. REBNE said she thinks it is important to recognize that there are areas where [board members] will not agree, but it is important to start with those areas where [board members] can come together. In her first three days of board meetings, she has identified at least three areas where [board members] have common ground: concern about overcrowding in rural Alaska, concern about overharvesting, and that many of the guides have a similar tie and emotions to the areas they use just as people in the Native community have for their lands. There is room to work together and move forward in these areas where common interests are shared.

[1:32:28 PM](#)

CO-CHAIR GATTO commented that [the committee] wants to make sure boards are fair, honest, and balanced to prevent favoring one group at the expense of another.

CO-CHAIR JOHNSON moved that the House Resources Standing Committee forward the names of appointees Ted Spraker, Brenda Rebne, and Frank Homan to a joint session for consideration.

There being no objection, all three appointments were advanced.

SB 253-BOARD OF GAME

[1:33:56 PM](#)

CO-CHAIR GATTO announced that the next order of business would be SENATE BILL NO. 253, "An Act relating to the appointment of members of the Board of Game; and providing for an effective date."

[1:34:30 PM](#)

JODY SIMPSON, Staff to Senator Charlie Huggins, Alaska State Legislature, speaking on behalf of the sponsor, Senator Huggins, stated that SB 253 would change the expiration date for the

terms of future Board of Game members from March 1 to [July 1]. If adopted, the statute change would: prevent problems that arise from the short time frame for newly-appointed members to prepare for the large regulatory board meetings that occur near the beginning of March every year; reduce confusion among the public over which board member to contact on issues; clarify the time by which appointments should be made; and bring the terms in line with those that are currently in place for the state's Board of Fisheries. She said the change would also avoid problems with having two or three of the seven board members serving in unconfirmed status during the March meeting each year. New members are aware their March meeting voting record will be examined during their legislative confirmation hearings and there can be undue scrutiny on a single vote instead of the nominees' overall qualifications. She noted that committee packets should include a letter from Board of Game president Mr. Cliff Judkins requesting this change, and also a letter from Mr. Jim Marcotte, Executive Director, Boards Support Section, Alaska Department of Fish & Game, which outlines the implications of the changes. This proposed adjustment in term expiration date recognizes the importance of the Board of Game and the complexity of the issues that come before it, she said.

[1:36:30 PM](#)

CO-CHAIR GATTO opened public testimony.

KRISTY TIBBLES, Executive Director, Board of Game, Boards Support Section, Alaska Department of Fish & Game (ADF&G), related the support of the Board of Game and the Alaska Department of Fish & Game for SB 253. She affirmed the information provided by Ms. Simpson. One of the bigger challenges faced by the Board of Game is that board members are often appointed shortly before the large regulatory meeting that occurs the end of February or the beginning of March. Changing the appointment date would greatly benefit the nominees' ability to prepare for these meetings. She urged the committee to support SB 253.

CO-CHAIR GATTO closed public testimony.

REPRESENTATIVE WILSON moved to report SB 253 out of committee with individual recommendations and the accompanying zero fiscal note. There being no objection, SB 253 was reported from the House Resources Standing Committee.

HB 367-SALE OF RAW MILK PRODUCTS

1:39:00 PM

CO-CHAIR GATTO announced that the final order of business would be HOUSE BILL NO. 367, "An Act relating to the sale of raw milk and raw milk products."

CO-CHAIR GATTO noted that there is a work draft that incorporates Amendments 2, 3, 4, 5, and 6 [adopted by the committee on 3/10/08]. Amendment 1 is not included because it was withdrawn. Amendment 7, which was before the committee when it adjourned [on 3/10/08], will be considered once the work draft is adopted.

CO-CHAIR JOHNSON moved that the committee adopt as the work draft the proposed committee substitute (CS) for HB 367, labeled 25-LS1429\C, Bannister, 3/11/08.

REPRESENTATIVE FAIRCLOUGH objected. She withdrew her objection after ascertaining which version of the work draft was before the committee.

1:40:24 PM

REPRESENTATIVE MARK NEUMAN, Alaska State Legislature, stated that the committee's suggestions were incorporated into the work draft.

CO-CHAIR GATTO requested a recap of Amendment 7.

LOUIE FLORA, Staff to Representative Paul Seaton, Alaska State Legislature, stated he provided the committee aide with a fact sheet on antibiotic resistance to go along with Amendment 7 proposed by Representative Seaton. The intent of Amendment 7 is to get away from the public health issue of antibiotic-resistant bacteria which can be prevalent in raw milk products and transmitted to the consuming public in unpasteurized milk. Amendment 7 would require that raw milk that is sold must come from an animal that has never received antibiotics.

1:43:00 PM

CO-CHAIR GATTO read Amendment 7, labeled 25-LS1429\A.1, Bannister, 3/6/08, to the committee [original punctuation provided]:

Page 2, line 28:

Delete "A"

Insert "Except as provided in (b) of this section, a"

Page 3, following line 2:

Insert a new subsection to read:

"(b) A raw milk product may not be sold under (a) of this section if the animal that produced the raw milk for the raw milk product has ever been treated with antibiotics. In this subsection, "treated with antibiotics" includes being injected with antibiotics or being fed antibiotics."

Reletter the following subsections accordingly.

1:44:23 PM

KRISTIN RYAN, Director, Division of Environmental Health, Department of Environmental Conservation (DEC), called attention to a fact sheet prepared by [the division] about antibiotic resistance that was distributed to the committee.

CO-CHAIR JOHNSON inquired how long antibiotics stay in an animal's system.

MS. RYAN responded she cannot answer that and the state veterinarian is not available. Current federal regulations for pasteurized milk outline the required length of time that an animal cannot be milked, and the length of time is different for each antibiotic.

1:45:20 PM

CO-CHAIR JOHNSON asked whether antibiotics stay in the meat.

MS. RYAN replied she cannot answer that, but she does not believe so because it is pretty much the same rules that apply to the sale of meat.

CO-CHAIR JOHNSON said his point is that he believes an injected antibiotic stays in the meat, but would not stay there forever. Milk has to be dumped for a certain period of time after the animal receives an antibiotic. Is it the same for meat, he asked.

MS. RYAN answered she does not know, the state returned the regulation of meat production to the federal government. She reiterated she thinks it is similar to milk - there is a time limit where the chemical is considered to exist in the body and after that time limit it is again safe to sell.

[1:46:25 PM](#)

CO-CHAIR JOHNSON inquired whether Ms. Ryan supports Amendment 7.

MS. RYAN responded the information she just passed out sort of explains [the division's] position. She acknowledged that antibiotic resistance is a problem, but [the division] believes in the safe use of antibiotics on the farm; not treating an animal that is known to be sick could be considered a cruelty issue. [The division] does not support banning antibiotic use on farms.

[1:46:55 PM](#)

CO-CHAIR GATTO asked whether cooking denatures a chemical like an antibiotic to a point where it becomes something different than the antibiotic itself.

MS. RYAN replied she does not believe so, but she will have to get back to the committee on that.

CO-CHAIR GATTO said the issue with raw milk is that the bacteria is not being killed by pasteurization, and milk is mostly fed to children who may be the most susceptible in the population. He related that Representative Seaton's point is, Do we want to give a resistant strain of bacteria to the most vulnerable section of the population? and, therefore, any cow receiving antibiotic should not be used for milk production.

[1:48:26 PM](#)

CO-CHAIR JOHNSON drew attention to a handout from Cornell University which shows that even pasteurization does not kill all bacteria. The handout also states that raw milk - if produced properly - could have 20 times less bacteria than pasteurized milk. He said his concern with Amendment 7 is the word "ever" so that milk from a cow that has ever been treated with an antibiotic cannot be sold as raw milk. What is the penalty if someone sells milk that is in violation of the time period for an antibiotic, and is there any way to check that, he inquired.

MS. RYAN explained that [the division] currently tests the pasteurized milk that is sold. Antibiotics are not allowed to be within the milk that is being processed for pasteurization. If antibiotics are detected, which happens occasionally, the entire tank of milk must be dumped at the cost of the dairy farmer. Because of that great expense, a farmer prefers to avoid that situation.

[1:50:40 PM](#)

REPRESENTATIVE WILSON asked whether there is a certain minimum time period that would apply to all antibiotics.

MS. RYAN said [the division] checks the milk and makes sure the standards are met. [The division's] ultimate goal is to ensure no milk is ever sold with an antibiotic residue in it. Antibiotics are used frequently on the farm and [the division] is aware of that. She said she does not believe raw milk would ever be able to be sold if Amendment 7 passes as written.

[1:51:38 PM](#)

REPRESENTATIVE WILSON asked whether it would work to amend Amendment 7 by replacing "ever" with "been treated with antibiotics in the last 30 days", or would it need to be 60 days.

MS. RYAN advised against getting that specific. She said she believes the current federal guidelines are very accurate and are followed closely and do the job sufficiently as-is.

REPRESENTATIVE WILSON surmised Ms. Ryan is saying Amendment 7 is really not needed.

MS. RYAN responded she is not saying that, it is for the committee to decide. She is just saying that [the division] already monitors antibiotics pretty heavily because of concern about residues in the milk and [the division] does not want people to get that because people could have allergies or other things. However, if the committee is worried about resistant bacteria, that is a very different situation than residue.

[1:52:34 PM](#)

REPRESENTATIVE FAIRCLOUGH said her point on the antibiotic issue is that the committee has taken out all of the testing requirements.

REPRESENTATIVE WILSON inquired whether the division would go to the farms selling raw milk to test the milk should HB 367 become law.

MS. RYAN replied yes, [the division's] intent would be to require testing to ensure there are no antibiotics in raw milk like [the division] does for pasteurized milk.

JOSEPH MCLAUGHLIN, MD, Acting Chief, Section of Epidemiology, Division of Public Health, in response to Co-Chair Gatto, stated he had nothing to add in regard to Amendment 7.

[1:54:21 PM](#)

REPRESENTATIVE EDGMON asked whether the division has the ability to test for antibiotics under current regulations.

MS. RYAN answered yes, [the division] has the authority in statute as indicated by Section 1 of HB 367. Current statute requires [the department] to regulate milk in compliance with the Pasteurized Milk Ordinance, the federal regulations that allow the state to do all sorts of things for milk. The new section, Section 2, is being added for raw milk. Section 2 does not necessarily say how [the division] would regulate raw milk, it just says the state should allow the sale of raw milk. At this point the bill is silent on that issue and [the division] has continually testified that it would intend to build a program similar to how it regulates pasteurized milk and [the division's] fiscal note reflects that. However, even though [the division] would implement as stringent a program as it can, [the division] still does not believe that would be adequate.

CO-CHAIR GATTO surmised it is within statute that [the division] has the privilege to move because milk is milk.

MS. RYAN responded no. The statute is clearer on pasteurized milk, it is silent on raw milk.

[1:56:02 PM](#)

REPRESENTATIVE ROSES stated it is his intent as a legislator that [the division] would build a set of regulations that would guarantee the testing procedure similar to what is currently

done for [pasteurized] milk so the public has some relative assurance that testing is being done.

CO-CHAIR GATTO noted that all committee members present are nodding their heads in agreement with Representative Roses.

REPRESENTATIVE FAIRCLOUGH said she definitely supports some kind of quality assurance for consumers.

1:57:38 PM

CO-CHAIR GATTO inquired whether [the division] would be able to perform these tests without an additional position.

MS. RYAN replied the fiscal note is requesting three additional positions; [the division] would not be able to do the testing within its current budget.

CO-CHAIR GATTO stated HB 367 would go to the House Finance Committee because of the fiscal note.

1:58:59 PM

REPRESENTATIVE ROSES requested Dr. McLaughlin's opinion on whether there is a relatively standard length of time that could be applied for antibiotics and therefore specified in the amendment or does he agree with not getting that specific.

DR. MCLAUGHLIN answered each antibiotic has a different half-life - some are a matter of hours and some are several days. He said Ms. Ryan's testimony was very accurate and he supports what she said.

2:00:10 PM

REPRESENTATIVE ROSES presumed that regardless of Dr. McLaughlin's position on raw milk, in regard to Amendment 7 the doctor would be comfortable that current regulations will prevent the selling of raw milk that contains antibiotics.

DR. MCLAUGHLIN said he believes that DEC's current, elaborate testing process is sufficient to determine whether there is antibiotic in the milk. However, he added, cows can be colonized with antibiotic-resistant bacteria in ways other than from inadequate antibiotic therapy for a bacterial infection. Antibiotic-resistant bacteria can be spread from farm to farm and from cow to cow through socializing with other cows and

through the feed. This is becoming a worldwide issue regardless of whether an individual cow has actually received an antibiotic in the past.

[2:02:16 PM](#)

CO-CHAIR GATTO surmised that every person has antibodies running through his or her system.

DR. MCLAUGHLIN said correct.

CO-CHAIR GATTO asked whether antibodies introduced to an individual's body are different enough so that they should be treated differently than those antibodies naturally produced by the individual. He noted that a person takes antibiotics to quickly raise titer levels rather than waiting for his or her body to produce its own immunity.

DR. MCLAUGHLIN responded he thinks three different things are being talked about. Antibiotics are drugs or chemicals that are produced to kill bacteria. Antibodies are developed by a person's or animal's own body as the result of antigens being introduced into the body and those antibodies kill the offending pathogens. Some human pathogens or bacteria are more resistant to the body's immune system and some are less resistant. Antibiotics are developed to help fight those bacteria that the body is less resistant to. When those pathogens develop a resistance to antibiotics, that is when there is serious trouble. This is being seen in all sorts of different human pathogens, from *Salmonella* to tuberculosis to influenza. More and more antibiotic-resistant pathogens will continue to emerge as the use of antibiotics continues in the healthcare setting.

[2:05:18 PM](#)

CO-CHAIR GATTO inquired what the significance would be to pass HB 367 with Amendment 7 as opposed to without Amendment 7.

DR. MCLAUGHLIN replied it would be better to have Ms. Ryan or the state veterinarian answer this question. He said his concern is much larger than just Amendment 7. His understanding is that DEC currently has a monitoring system in place that is able to determine whether there are antibiotics in milk that is being sold. The question is whether DEC can go to all of these small mom-and-pop farms that are selling raw milk to determine whether antibiotics are in that milk. He said it is apparent to him that DEC will not be able to do that. The department may be

able to that with some of the farms or maybe with all of the farms some of the time, but DEC does not have the capacity to do it with all of the farms all of the time.

[2:07:12 PM](#)

CO-CHAIR GATTO asked whether Dr. McLaughlin is saying that small farms have a failure rate in regard to the voluntary compliance of not selling milk from cows treated with antibiotics.

DR. MCLAUGHLIN said he thinks that if Amendment 7 were to stand, the risk of raw milk being sold with antibiotics in it would certainly decrease.

[2:07:48 PM](#)

CO-CHAIR JOHNSON inquired whether milk could be tested to detect an antibiotic that had been administered to the cow six months or a year ago.

DR. MCLAUGHLIN stated not to his knowledge.

CO-CHAIR JOHNSON asked about 30 days ago.

DR. MCLAUGHLIN answered he could research this to come up with a definitive number.

CO-CHAIR JOHNSON deduced there is no way to tell whether a cow has ever had an antibiotic.

DR. MCLAUGHLIN agreed.

[2:08:51 PM](#)

REPRESENTATIVE ROSES objected to Amendment 7. [Representative Wilson had previously objected to Amendment 7 on 3/10/08.]

CO-CHAIR JOHNSON said if Representative Roses had not objected he would have.

[2:09:10 PM](#)

REPRESENTATIVE NEUMAN stated there is no way to tell whether a cow or animal has ever been treated. He related that in the opinion of Dr. Gerlach, the state veterinarian, it would be considered cruelty to not treat a sick animal with antibiotic.

Keeping an animal healthy is natural animal husbandry. Selling milk from an unhealthy animal would be a problem.

CO-CHAIR JOHNSON called the question.

REPRESENTATIVE NEUMAN added one more statement: Should a mother be able to breastfeed if she has ever had an antibiotic?

CO-CHAIR JOHNSON again called the question.

A roll call vote was taken. No one voted in favor of Amendment 7. Representatives Edgmon, Fairclough, Wilson, Roses, Johnson, and Gatto voted against it. Therefore, Amendment 7 failed by a vote of 0-6.

[2:11:35 PM](#)

CO-CHAIR GATTO announced that HB 367, as amended, was now before the committee.

REPRESENTATIVE FAIRCLOUGH moved to report CSHB 367, Version 25-LS1429\C, Bannister, 3/11/08 out of committee with individual recommendations, the accompanying fiscal notes [and the forthcoming fiscal note]. There being no objection, CSHB 367(RES) was reported from the House Resources Standing Committee.

[2:12:18 PM](#)

CO-CHAIR JOHNSON said he thinks there may be an additional forthcoming fiscal note. He requested that the motion be restated to include the forthcoming fiscal note.

REPRESENTATIVE FAIRCLOUGH agreed.

ADJOURNMENT

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:12 p.m.