

**ALASKA STATE LEGISLATURE**  
**SENATE LABOR AND COMMERCE STANDING COMMITTEE**

May 8, 2007

1:34 p.m.

**MEMBERS PRESENT**

Senator Johnny Ellis, Chair  
Senator Gary Stevens, Vice Chair  
Senator Bettye Davis  
Senator Con Bunde

**MEMBERS ABSENT**

Senator Lyman Hoffman

**COMMITTEE CALENDAR**

CS FOR HOUSE BILL NO. 155(FIN)

"An Act extending the termination date of the Alcoholic Beverage Control Board; and providing for an effective date."

MOVED CSHB 155(FIN) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 228(L&C)

"An Act relating to fees for certain medical treatment and service under the Alaska Workers' Compensation Act; and providing for an effective date."

MOVED CSHB 228(L&C) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 205(FIN)

"An Act relating to real estate broker and real estate salesperson licensing; and providing for an effective date."

MOVED CSHB 205(FIN) OUT OF COMMITTEE

SENATE BILL NO. 165

"An Act relating to required onboard disclosures about promotions, tours, flight seeing operations, other shore side activities, shore side vendors, and visitors bureaus; and providing for an effective date."

MOVED SB 165 OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 217(JUD)

"An Act relating to required onboard disclosures about promotions, tours, flight seeing operations, other shore side activities, shore side vendors, and visitors bureaus; and providing for an effective date."

SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 155

SHORT TITLE: EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD

SPONSOR(s): LABOR & COMMERCE

02/26/07 (H) READ THE FIRST TIME - REFERRALS  
02/26/07 (H) L&C, FIN  
03/16/07 (H) L&C AT 3:00 PM CAPITOL 17  
03/16/07 (H) -- MEETING CANCELED --  
03/28/07 (H) L&C AT 3:00 PM CAPITOL 17  
03/28/07 (H) Moved Out of Committee  
03/28/07 (H) MINUTE(L&C)  
03/29/07 (H) L&C RPT 7DP  
03/29/07 (H) DP: GARDNER, LEDOUX, BUCH, NEUMAN,  
GATTO, RAMRAS, OLSON  
04/11/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/11/07 (H) Moved CSHB 155(FIN) Out of Committee  
04/11/07 (H) MINUTE(FIN)  
04/13/07 (H) FIN RPT CS(FIN) 6DP 3NR  
04/13/07 (H) DP: GARA, CRAWFORD, HAWKER, JOULE,  
CHENAULT, MEYER  
04/13/07 (H) NR: NELSON, STOLTZE, KELLY  
04/25/07 (H) FIN CS ADOPTED Y24 N12 E4  
04/26/07 (H) TRANSMITTED TO (S)  
04/26/07 (H) VERSION: CSHB 155(FIN)  
04/27/07 (S) READ THE FIRST TIME - REFERRALS  
04/27/07 (S) L&C, FIN  
05/08/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 228

SHORT TITLE: WORKERS' COMP. MEDICAL TREATMENT FEES

SPONSOR(s): REPRESENTATIVE(s) KELLY

03/29/07 (H) READ THE FIRST TIME - REFERRALS  
03/29/07 (H) L&C, FIN  
04/16/07 (H) L&C RPT CS(L&C) 2DP 5NR  
04/16/07 (H) DP: NEUMAN, OLSON  
04/16/07 (H) NR: GARDNER, LEDOUX, BUCH, GATTO,  
RAMRAS  
04/16/07 (H) L&C AT 10:00 AM CAPITOL 17  
04/16/07 (H) Moved CSHB 228(L&C) Out of Committee  
04/16/07 (H) MINUTE(L&C)  
04/25/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/25/07 (H) Moved CSHB 228(L&C) Out of Committee  
04/25/07 (H) MINUTE(FIN)  
04/26/07 (H) FIN RPT CS(L&C) 5DP 3NR

04/26/07 (H) DP: STOLTZE, KELLY, HAWKER, MEYER,  
CHENAULT  
04/26/07 (H) NR: GARA, CRAWFORD, THOMAS  
05/02/07 (H) TRANSMITTED TO (S)  
05/02/07 (H) VERSION: CSHB 228(L&C)  
05/03/07 (S) READ THE FIRST TIME - REFERRALS  
05/03/07 (S) L&C  
05/08/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: HB 205

SHORT TITLE: REAL ESTATE BROKERS/SALESPERSONS  
SPONSOR(s): LABOR & COMMERCE BY REQUEST

03/16/07 (H) READ THE FIRST TIME - REFERRALS  
03/16/07 (H) L&C, FIN  
04/13/07 (H) L&C AT 3:00 PM CAPITOL 17  
04/13/07 (H) Moved CSHB 205(L&C) Out of Committee  
04/13/07 (H) MINUTE(L&C)  
04/16/07 (H) L&C RPT CS(L&C) 2DP 2NR  
04/16/07 (H) DP: NEUMAN, OLSON  
04/16/07 (H) NR: GARDNER, BUCH  
04/17/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/17/07 (H) Heard & Held  
04/17/07 (H) MINUTE(FIN)  
04/18/07 (H) FIN AT 1:30 PM HOUSE FINANCE 519  
04/18/07 (H) Moved CSHB 205(FIN) Out of Committee  
04/18/07 (H) MINUTE(FIN)  
04/19/07 (H) FIN RPT CS(FIN) 4DP 4NR  
04/19/07 (H) DP: CRAWFORD, THOMAS, MEYER, CHENAULT  
04/19/07 (H) NR: GARA, STOLTZE, JOULE, HAWKER  
04/27/07 (H) TRANSMITTED TO (S)  
04/27/07 (H) VERSION: CSHB 205(FIN)  
04/30/07 (S) READ THE FIRST TIME - REFERRALS  
04/30/07 (S) L&C, JUD  
05/08/07 (S) L&C AT 1:30 PM BELTZ 211

BILL: SB 165

SHORT TITLE: TOURISM DISCLOSURES AND NOTICES  
SPONSOR(s): SENATOR(s) ELTON

04/30/07 (S) READ THE FIRST TIME - REFERRALS  
04/30/07 (S) L&C, JUD  
05/08/07 (S) L&C AT 1:30 PM BELTZ 211

**WITNESS REGISTER**

EMILY WOLF

Staff to Representative Olson  
Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Commented on HB 155 and HB 205 for the sponsor.

PAT DAVIDSON, Legislative Auditor  
Division of Legislative Audit  
Juneau, AK

**POSITION STATEMENT:** Supported HB 155.

DALE FOX, President and CEO  
Cabaret, Hotel, Restaurant and Retailer's Association (CHARR)  
Anchorage, AK

**POSITION STATEMENT:** Supported HB 155 with a one-year extension.

ANDY LUNDQUIST, Treasurer  
Kodiak CHARR  
Kodiak, AK

**POSITION STATEMENT:** Supported HB 155 with a one-year extension.

DOUG GRIFFIN, Director  
Alcohol Beverage Control Board (ABC)  
Anchorage, AK

**POSITION STATEMENT:** Commented on HB 155.

DAVE FEEKIN  
Alaska Association of Realtors  
Anchorage, AK

**POSITION STATEMENT:** Supported HB 205.

RICK URION, Director  
Division of Corporations, Business and Occupational Licensing  
Department of Commerce, Community & Economic Development  
Juneau, AK

**POSITION STATEMENT:** Supported HB 205.

DEREK MILLER  
Staff to Representative Kelly  
Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Commented on HB 228 for the sponsor.

LINDA HALL, Director  
Division of Insurance  
Department of Commerce, Community & Economic Development (DCCED)  
Juneau, AK

**POSITION STATEMENT:** Supported HB 228.

MIKE HOGAN, Executive Director  
Alaska Physicians and Surgeons  
Anchorage, AK

**POSITION STATEMENT:** Supported HB 228.

REPRESENTATIVE LINDSEY HOLMES  
Alaska State Legislature  
Juneau, AK

**POSITION STATEMENT:** Commented on SB 165.

JAMES WALDO  
Staff to Representative Lindsey Holmes  
Alaska State Capitol  
Juneau, AK

**POSITION STATEMENT:** Commented on SB 165 for Representative Holmes.

DON HESS  
Chilkat River Adventures  
Haines, AK

**POSITION STATEMENT:** Supported SB 165.

JOHN DUNLAP, Manager  
Allen Marine Tours  
Sitka, AK

**POSITION STATEMENT:** Supported SB 165.

STEVE HEIGHTS  
Skagway Streetcar Company  
Skagway, AK

**POSITION STATEMENT:** Supported SB 165.

ALLEN LEMASTER  
Gakona, AK

**POSITION STATEMENT:** Supported SB 165.

KELLY DINDINGER  
Alaska Travel Adventurers  
Alaska Cruises Inc.  
Juneau, AK

**POSITION STATEMENT:** Supported SB 165.

**ACTION NARRATIVE**

**CHAIR JOHNNY ELLIS** called the Senate Labor and Commerce Standing Committee meeting to order at [1:34:30 PM](#). Present at the call to order were Senators Stevens, Davis, Bunde and Ellis.

**CSHB 155(FIN)-EXTEND ALCOHOLIC BEVERAGE CONTROL BOARD**

[1:35:28 PM](#)

CHAIR ELLIS announced CSHB 155(FIN) to be up for consideration.

EMILY WOLF, staff to Representative Kurt Olson, sponsor of HB 155, said because of some difficulties Legislative Audit found, the scheduled extension was changed from 2013 to 2010 by the Finance Committee.

[1:36:40 PM](#)

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, explained said that she recommended that the ABC Board continue to 2013 even though the standard recommendation for an extension is eight-years. She recommended six-years because of a lack of administrative strategy for accomplishing overall enforcement goals. She explained that the Board is responsible for compliance checks of businesses that serve alcohol. The number of inspections did increase, however their distribution still needs improvement. For example, businesses in Fairbanks and Juneau have a 100 percent chance of being inspected over a four-year period, but Kenai businesses have a 38 percent chance of an inspection over that same time period. The Board also needs to improve notifications of its meetings and activities to provide for better public participation.

[1:38:41 PM](#)

She said another area where improvement is needed is that the ABC executive director can make a tie-breaking vote and her concern is that basically he is then acting as a public member. However he has never been screened to determine whether he meets the qualifications of a public member. Also, being the executive director, he is privy to more information than the board members are. She said there are alternative ways to get a tie-breaking vote.

[1:39:30 PM](#)

MS. DAVIDSON said a minor issue of more interest to the Finance Committee than the Labor and Commerce Committee is that the general wholesale license fees are based on sales volume and hadn't changed since 1980. What has happened is that the increase in sales volume has turned what was a progressive tax

structure into a regressive tax structure and the legislature might want to adjust that.

[1:39:57 PM](#)

CHAIR ELLIS asked how she would characterize the ABC Board's reaction to her recommendations.

MS. DAVIDSON replied the members were supportive of the recommendations and were looking for ways to change. The Department of Public Safety (DPS) to which the Board is administratively associated was also supportive of the changes and was willing to help it in any way it could.

CHAIR ELLIS asked if the administration would have legislation in the future that would address these issues.

MS. DAVIDSON replied that she didn't know.

[1:40:55 PM](#)

DALE FOX, President and CEO, Alaska Cabaret, Hotel, Restaurant and Retailer's Association (CHARR), said he supported a strong ABC Board and HB 155. He said that beverage licensees around the state are dismayed with ABC's administration and anti-business approach. Many of his members were not aware of this meeting today or they would have been testifying. He said that CHARR has been working both internally and externally to try to correct some of the more significant challenges and he thought a one-year extension would be good so that if improvements aren't seen by then, the legislature could provide remedies.

SENATOR BUNDE asked for some specific examples of his organization's concerns.

[1:43:33 PM](#)

MR. FOX replied everything from the lack of timeliness of response to the garbled response in terms of what the rules are and how they are being reinterpreted. One example is interpretation of TAM card statues and Title 4 regulations. The Board has come up with 3, 4 or 5 different interpretations. He explained that everyone who serves alcohol needs a TAM card and the question then becomes who else needs a TAM card. In previous years it has been the supervisor of people serving alcohol. Then the administration came out and said that included any stockholder. Then it was asked if all CIRRI stockholders have to have TAM cards because CIRRI has a liquor license. He said that

CHARR has three different written opinions from the ABC Board on the TAM card issue and the statute tells them a fourth.

Another example is enforcement issues. The statute says that you have to have your TAM card on you or that you made a copy. Well, that seems clear to him, but the ABC Board and its enforcers have now said that if you have a copy, that just means you can finish the shift and you still get a ticket. They have gone as far as walking into an establishment to do an inspection and asking to see the TAM card. When the bartender went to her purse to get her TAM card and she was told she had to have it on her person. Also, he said you can't get a license in any sort of reasonable time and enforcement is "punitive from top to bottom." For all these reasons CHARR wanted to see a one-year extension.

[1:46:28 PM](#)

ANDY LUNDQUIST, Treasurer, Kodiak CHARR, said he is also a 25-year operator of a bar and package store in Kodiak. He said the ABC Board is professionally run and he liked the idea that a number of industry interests are represented on it. He agreed that improvements are still needed and that a one-year sunset would be useful.

[1:48:03 PM](#)

DOUG GRIFFIN, Director, Alcohol Beverage Control Board (ABC), said the Board appreciated the concerns raised in the audit and that it is trying to respond to them. He said it had implemented all of the recommendations that were made in the prior audit and use this oversight as a tool to seek ways to improve. He reported that the Board is in the process of refining its database to address some other internal control issues that were raised. He concurred that the board director should not be the tie-breaking vote and he has heard the Palin administration was going to introduce legislation about that.

[1:50:29 PM](#)

He said part of the issue with enforcement of the alcohol beverage laws in Alaska is that it is not done solely by ABC investigators and he has no control over them. In fact, there are only four investigators for the entire state. A trooper is also assigned to do compliance checks, but aside from that meager enforcement staff, they really rely on municipal police departments and the Alaska State Troopers. He said that adequate training to enforcement taken from other agencies needs to

happen and that these laws need to be applied in a thoughtful uniform manner.

MR. GRIFFIN said he preferred a six-year extension because the Board needs additional time to implement some of the recommendations made by Legislative Audit. If CHARR has issues, those need to be dealt with in separate legislation, not in the sunset vehicle. Some CHARR people don't like the fact that the ABC Board is now in the Department of Public Safety (DPS), but having moved to the DPS has increased its enforcement profile and the audit said that was a good move.

[1:54:21 PM](#)

CHAIR ELLIS said he thought the administration would come up with legislation to address some of the other issues, but it is a given that the ABC Board will be extended. He narrowed the issue down saying he was comfortable with the three-year extension that was proposed in the version before them.

SENATOR BUNDE concurred with the chair.

SENATOR STEVENS agreed as well.

[1:55:19 PM](#)

SENATOR BUNDE moved to pass CSHB 155(FIN) with individual recommendations. There were no objections and it was so ordered.

#### **CSHB 205(FIN)-REAL ESTATE BROKERS/SALESPERSONS**

[1:57:03 PM](#)

CHAIR ELLIS announced CSHB 205(FIN) to be up for consideration.

ELEANOR WOLF, staff to Representative Kurt Olsen, sponsor of HB 205, said this bill was introduced at the request of the Association of Realtors. Specifically, section 1 would increase the hours of education for a license applicant from 20 to 40. Section 2 increases continuing education hours from 20 to 30 hours. The realtors preferred to increase their hours rather than scrimp on the education content. Section 3 adds a provision that 7 years must elapse for anyone convicted of a felony involving moral turpitude to reapply for licensure.

Section 4 adds language that allows a broker to live outside the state if he does not employ a licensee or his licensees are directly supervised by an associate broker. Section 5 provides that a broker who owns, operates or is employed by multiple corporations requiring real estate licensing is at a single

physical address for all principle offices. Apparently there was an incident where one person owned three or four different real estate offices and was never appearing in any of them. Therefore, he was not there to oversee.

[1:57:45 PM](#)

Section 6 states that all policies and procedures be made available to the public. Section 7 is a February 1, 2008 effective date. This coincides with the issuance of the renewal licenses.

[1:58:45 PM](#)

SENATOR STEVENS asked if any other statutory language says a felony involves only "moral turpitude."

MS. WOLF replied that other statutes say you can't be under indictment for forgery, theft, extortion, conspiracy to defraud creditors or any other felony involving moral turpitude or be convicted of such offense. The bill has added after a lapse of seven years.

SENATOR STEVENS said he didn't think the bill said what the sponsor statement says. The bill just says "a felony".

[1:59:22 PM](#)

CHAIR ELLIS asked MS. WOLF to get that clarified.

[1:59:45 PM](#)

DAVE FEEKIN, Alaska Association of Realtors, supported HB 205 and said it is a modernization of the existing statutes relating to real estate brokerage. He highlighted that this bill increases the education time from 20 to 40 hours before a person takes the real estate licensing exam and remarked that at 20 hours, Alaska was the lowest in the country; however, at 40 hours it is still the lowest in the country. The Association supported increasing post-licensing education from 20 to 30 hours to have time to adequately teach the required course material rather than reducing the content.

[2:01:21 PM](#)

Section 8 requires a broker to be responsible and supervise the actions of their licensees. He explained that the Alaska Supreme Court ruled in the 80s that a broker is not responsible for conduct that they had no knowledge of, but this provision makes it the duty of the licensee to inform the broker of issues needing his supervision.

MS. WOLF clarified and apologized that she was looking at the wrong version of the bill before, but she needed more time to see if she used the correct sponsor statement.

SENATOR STEVENS added that he went through the bill more carefully and saw that every reference to "moral turpitude" was removed. Saying "any felony" was tougher language and he was comfortable with it.

[2:03:38 PM](#)

RICK URION, Director, Division of Corporations, Business and Occupational Licensing, Department of Commerce, Community & Economic Development, supported HB 205 saying it is more workable for both the division and the public.

[2:04:43 PM](#)

SENATOR STEVENS moved to pass CSHB 205(FIN) from committee with individual recommendations and attached fiscal note. There were no objections and it was so ordered.

**CSHB 228(L&C)-WORKERS' COMP. MEDICAL TREATMENT FEES**

[2:05:20 PM](#)

CHAIR ELLIS announced CSHB 228 (L&C) to be up for consideration.

DEREK MILLER, staff to Representative Kelly, sponsor of HB 228, said in 2005 the Alaska Legislature passed SB 130, which was a major rewrite of the Workers' Compensation statutes. As a part of that, medical payments were frozen at the 2004 fee schedule so that a review could be done to find the underlying reasons for premium increases. This review was to be jointly done by a special workers' compensation legislation task force in concert with the Department of Labor and Workforce Development (DOLWD) Medical Review Committee. The task force was to develop recommendations to moderate program increases in the future as part of the conditions of this medical rate freeze and to complete its work by February of 2006. The rate freeze would sunset in August 2007 and a plan is not yet in place for the post rate freeze sunset period and that is why this legislation was introduced.

MR. MILLER said under HB 228 the medical rate freeze would be extended for two years to allow time for recommendations to be developed and it also implements an annual rate increase based on the medical component of the consumer price index (CPI). In

closing, he said this is not meant to be a long-term fix, but a stop-gap measure.

[2:07:36 PM](#)

He said this bill is supported by the Alaska State Hospital and Nurses Home Association, the Alaska Physicians and Surgeons, the Alaska State Medical Association, the Alaska Municipal League Joint Insurance Agency, the State Chamber of Commerce, the Department of Labor and Workforce Development (DOLWD), the Division of Insurance and Bradner's Alaska Legislative Digest that on page 6 said this bill is a "must have" for the Palin administration.

[2:07:56 PM](#)

LINDA HALL, Director, Division of Insurance, Department of Commerce, Community & Economic Development (DCCED), said she supported HB 228 and that she wanted to highlight some of its points. She stated with the freeze having been in place, Attachment 1 shows the portion of workers' compensation system cost nationally is 58 percent - comprised of medical expenses. In Alaska, that percentage is at 69 percent and rising. System cost means what is paid out for treatment of injured workers and indemnity as lost wages. They are not the same thing as premium, but they are a component of premium.

MS. HALL explained that in her premium calculations that she ultimately approves through public rate hearings, she looks at historical system costs and their trending. For example, if she charged \$10 for a single workers' compensation claim today and trended that over the next 10 years, potentially it would likely to trend up to \$15 or \$20. On top of that, she explained, insurance companies have what is called an "expense factor" that they put on top of that.

[2:10:12 PM](#)

MS. HALL urged them to look at Exhibit 4 and said as of October 2006, an Oregon study shows that the workers' compensation rates in Alaska are the highest in the country - and they might climb even higher unless some better controls on medical expenses are found. This is not to imply that people are necessarily charging too much; medical costs in Alaska are higher than in the rest of the country, also. This is seen in all the state's systems.

[2:11:38 PM](#)

The last attachment in her presentation she said is a review and evaluation of this bill by the National Counsel on Compensation Insurance. The second paragraph predicts what would occur

without this legislation and it projects a 4.5 to 5.8 percent increase in system costs overall. HB 228 holds it at a minimal 1.3 percent. Ms. Hall said the system costs are compounded by other parts of the rate making process. So, it is critical to look at this additional freeze.

[2:12:50 PM](#)

SENATOR BUNDE said she mentioned the medical costs were around 60 percent in Alaska and lower in other states and asked if that is a factor of the cost of the medical procedures in Alaska or does something else in the system make that percentage higher.

MS. HALL responded that she just recently reviewed a two-year National Counsel on Compensation Insurance study on that and found that, in general, the cost of doing business in Alaska is more expensive than in other areas of the country.

SENATOR BUNDE recalled seeing something recently saying that the cost of living in Anchorage is probably less than it is in Portland and Seattle and yet the cost of medical treatment is so much higher. A chart showed that a colonoscopy costs \$2,500 in Alaska and \$1,400 in the Lower 48. He found it hard to believe that the cost should be that much higher in Alaska.

MS. HALL said she didn't disagree with that.

CHAIR ELLIS said he shared that concern and he hoped to get to the bottom of that. He asked if building inflation-proofing into the bill was reasonable

MS. HALL replied that it was an objective way to make an increase and she didn't think it appropriate or fair to continue to freeze the medical fee schedule at the December 2004 level. To use objective criteria is the most appropriate way to do that.

CHAIR ELLIS asked Senator Bunde if the base is fair and the mechanism is reasonable, could he support inflation proofing so the legislature didn't have to spend time revisiting it.

SENATOR BUNDE said it's hard to find doctors for Medicare patients because of the federally mandated level of reimbursement. He asked if she could envision injured workers having problems with finding someone to treat them at these rates.

[2:17:06 PM](#)

MS. HALL replied that her division hadn't received a complaint about access to medical care and she didn't envision this legislation having an impact on people getting medical care.

MIKE HOGAN, Executive Director, Alaska Physicians and surgeons, supported HB 228.

[2:18:45 PM](#)

SENATOR STEVENS moved to pass CSHB 228(L&C) from committee with individual recommendations and attached fiscal notes. There were no objections and it was so ordered.

### **SB 165-TOURISM DISCLOSURES AND NOTICES**

[2:19:53 PM](#)

CHAIR ELLIS announced SB 165 to be up for consideration. He said it is companion legislation to house legislation that is coming over shortly. His goal was to hear this bill and move it on to the Judiciary Committee and expect the House legislation to meet it there. He said that Representative Holmes had done the lion's share of the work and would speak for Senator Elton.

REPRESENTATIVE LINDSEY HOLMES, sponsor of the HB 217, asked JAMES WALDO, her staff person, to help present the bill.

MR. WALDO said SB 165, which is the companion for HB 217, addresses concerns of the local vendor tour businesses. It alters and improves the disclosure section that was passed in the cruise ship initiative, Ballot Measure 2, in the last election. It adds several requirements for disclosure for on-board sales and alters the commission rate disclosure; it also adds a section that applies that to advertisements for shore-side retailers as well. He said the on-board tour sales are changed to require a disclosure under every sale that the on-board sale is a wholesale/retail relationship between the shore-side tour vendor and the cruise line. This basically helps the passengers to be informed that the cruise line will keep a percentage of the money paid for a tour. The disclosure is also required to include information on other alternatives available at future ports of call with different prices and different features. It also requires the cruise ships to provide vendors' contact information to the visitors' bureaus in each port of call so that the passengers can contact them independently and compare prices.

[2:21:51 PM](#)

MR. WALDO said this legislation alters the disclosure requirement that was in the initial initiative. It originally said the cruise line is required to disclose the exact commission rate in all written materials when they sold that tour. However, that threatened the local Alaskan business on the shore-side because it would expose their pricing structures and they had a very really worry that this would lead to price undercutting. This price undercutting would only affect the Alaskan businesses because they would be competing with each other for lower and lower prices while the cruise ships maintained the higher commission rate.

After working with the initiative's sponsors, Mr. Waldo said, they came to a good fix in requiring a disclosure when the commission reaches a certain threshold of over 20 percent. This helps the consumer realize they are paying a commission over a certain rate.

[2:24:19 PM](#)

Finally, it adds a new section that was left out of the initiative. That section applies these disclosure requirements to shore-side retailers as well. Right now on-board the cruise ships shore-side retailers, like Diamonds International, advertise, but they charge extremely steep advertising rates that amount to a percentage of the sales. This would allow passengers to see that a percentage of those retail sales are being recouped by the cruise ship and effectively allows them to realize that there are other stores and other alternatives for them to use.

[2:25:10 PM](#)

SENATOR BUNDE asked if sponsors of the cruise ship initiative agree with this legislation.

MR. WALDO replied yes. He said that Joe Geldhof is on record in the House Judiciary Committee speaking in favor of HB 217 and Kirsten Cohen, another sponsor of the initiative, had also written a letter in support.

SENATOR BUNDE said he heard from a number of constituents who said they knew what they voted for and didn't want it changed.

MR. WALDO responded that to assuage those concerns even more, one of the more significant final pieces in the bill corrects an error in the initiative that cited violation of these requirements as an unfair trade practice - with a maximum fine of \$100 - which for a cruise line, is just a slap on the wrist.

Any other unfair trade practice has a penalty of \$1,000 to \$25,000, a significant deterrent. So, SB 165 and HB 217 remove the requirement the \$100-penalty and replace it with \$1,000 to \$25,000.

[2:27:58 PM](#)

DON HESS, Chilkat River Adventures, supported SB 165. He was once in the logging business, then he turned to trucking and being a heavy equipment operator. In 1973, he decided to start a river tour business in Haines. He said his current company is successful only because of the cruise ships and now it is being drastically affected by the initiative's disclosure requirement. He urged them to pass SB 165 out of committee today; 50 businesses have testified in support of these changes and not one business has testified in opposition.

CHAIR ELLIS said he personally thought a good balance had been struck between the spirit of the initiative and the sponsors and some of the practical implications.

[2:32:37 PM](#)

JOHN DUNLAP, Manager, Allen Marine Tours, supported SB 165 and thought the language met the intent of the voters better than that in the ballot initiative.

[2:34:16 PM](#)

STEVE HEIGHTS, Skagway Streetcar Company, supported SB 165. He agreed with the previous two testifiers and said that most importantly, the committee should understand that tour operators don't pay commissions to the cruise lines. Rather the cruise lines customers pay them. He explained:

We create, manufacture, tour products, and we sell those at wholesale net price to the cruise ship or retail store. We sell our products at a volume rate, too, because blocks of seats - we can produce for less than the cost of a single seat. Some of us sell retail, as well, at our windows, but those are at a retail price, not at the wholesale volume price.

He knows of no other retail business that has to disclose their retail markups. He is not opposed to disclosure, but the disclosure he wants to see is the truth. He said point 4 in SB 165 is still wrong in that it still includes an arbitrary 20 percent figure; it still uses the incorrect word "commission" and this is not true. Rather:

The truth is that there is a retail/wholesale relationship here and having been so stated in a statute, there should be no more that needs to be said - because that in and of itself in business states the truth of commerce. HB 217 and SB 165 may be a temporary fix, but they still do not state the truth and truth and honesty in disclosure for the citizens of Alaska, for the consumer, is what the people voted for. Thank you so much for my opportunity and I do hope you pass this along.

[2:37:10 PM](#)

ALLEN LEMASTER testified from Gakona in support of Mr. Heights' testimony. This bill is the best fix we can have for what is a bad idea initially.

[2:38:46 PM](#)

KELLY DINDINGER, Alaska Travel Adventurers and Alaska Cruises Inc., said she is very concerned that this bill may not move forward quickly. She said Alaska Travel Adventurers is her livelihood and it doesn't start making money until July - and "We're out of money now. We need to start making our sales." She just got an announcement that some cruise lines are telling their customers if they don't buy a tour before hitting Alaskan waters, they are not going to get to buy it, because they don't know what is legal.

[2:42:19 PM](#)

SENATOR STEVENS moved to pass SB 165 from committee with individual recommendations and attached fiscal note. There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Ellis adjourned the meeting at [2:42:48 PM](#).