

**ALASKA STATE LEGISLATURE  
HOUSE STATE AFFAIRS STANDING COMMITTEE**

February 18, 2020

3:02 p.m.

**MEMBERS PRESENT**

Representative Zack Fields, Co-Chair  
Representative Jonathan Kreiss-Tomkins, Co-Chair  
Representative Grier Hopkins  
Representative Andi Story  
Representative Steve Thompson  
Representative Sarah Vance  
Representative Laddie Shaw

**MEMBERS ABSENT**

All members present

**OTHER LEGISLATORS PRESENT**

Representative Andy Josephson

**COMMITTEE CALENDAR**

SENATE BILL NO. 144

"An Act establishing June 7 of each year as Walter Harper Day."

- HEARD & HELD

HOUSE BILL NO. 74

"An Act repealing the ocean rangers program; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 239

"An Act establishing a state lottery; providing for participation in multi-state lotteries; establishing the Alaska State Lottery Board in the Department of Revenue; relating to confidentiality of information regarding lottery winners; requiring background investigations by the Department of Public Safety; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 144

SHORT TITLE: ESTABLISH JUNE 7 AS WALTER HARPER DAY

SPONSOR(s): SENATOR(s) BISHOP

01/21/20 (S) PREFILE RELEASED 1/17/20  
01/21/20 (S) READ THE FIRST TIME - REFERRALS  
01/21/20 (S) STA  
02/04/20 (S) STA AT 3:30 PM BUTROVICH 205  
02/04/20 (S) Moved SB 144 Out of Committee  
02/04/20 (S) MINUTE(STA)  
02/05/20 (S) STA RPT 4DP  
02/05/20 (S) DP: REVAK, COSTELLO, KAWASAKI, COGHILL  
02/07/20 (S) TRANSMITTED TO (H)  
02/07/20 (S) VERSION: SB 144  
02/10/20 (H) READ THE FIRST TIME - REFERRALS  
02/10/20 (H) STA  
02/18/20 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 74

SHORT TITLE: COMM. VESSEL ENVIRONMENTAL COMPLIANCE/FEE

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/25/19 (H) READ THE FIRST TIME - REFERRALS  
02/25/19 (H) STA, RES, FIN  
02/11/20 (H) STA AT 3:00 PM GRUENBERG 120  
02/11/20 (H) Heard & Held  
02/11/20 (H) MINUTE(STA)  
02/18/20 (H) STA AT 3:00 PM GRUENBERG 120

BILL: HB 239

SHORT TITLE: ESTABLISH STATE LOTTERY BOARD/LOTTERIES

SPONSOR(s): THOMPSON

02/05/20 (H) READ THE FIRST TIME - REFERRALS  
02/05/20 (H) STA, FIN  
02/18/20 (H) STA AT 3:00 PM GRUENBERG 120

**WITNESS REGISTER**

SENATOR CLICK BISHOP  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Introduced SB 144, as prime sponsor.

DARWIN PETERSON, Staff  
Senator Click Bishop

Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided background information during the hearing on SB 144, on behalf of Senator Bishop, prime sponsor.

TERRY HAINES, Councilmember  
City of Kodiak  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in support of CSHB 74.

JACK SLAGHT  
Petersburg, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

TIM NELICK  
Galveston, Texas

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

GERSHON COHEN  
Haines, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

CHRIS SCHNEIDER  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

ROBERT LAYKO  
Vancouver, Washington

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

JEFF HOKKANEN  
Homer, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

JOHN CLIFTON PASSMORE  
Eagle River, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

JOE GELDHOF  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the hearing on CSHB 74.

SETH WHITTEN, Staff  
Representative Steve Thompson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions on behalf of Representative Thompson, prime sponsor of HB 239.

**ACTION NARRATIVE**

[3:02:23 PM](#)

**CO-CHAIR JONATHAN KREISS-TOMKINS** called the House State Affairs Standing Committee meeting to order at 3:02 p.m. Representatives Story, Thompson, Vance, Hopkins, Fields, and Kreiss-Tomkins were present at the call to order. Representative Shaw arrived as the meeting was in progress.

**SB 144-ESTABLISH JUNE 7 AS WALTER HARPER DAY**

[3:03:37 PM](#)

**CO-CHAIR KREISS-TOMKINS** announced that the first order of business would be SENATE BILL NO. 144, "An Act establishing June 7 of each year as Walter Harper Day."

[3:03:52 PM](#)

**SENATOR CLICK BISHOP**, Alaska State Legislature, relayed a brief account of Walter Harper's accomplishments as the first person to reach the summit of Denali [Mountain] at the age of 20, on June 7, 1913. He left Fairbanks by dog team, arrived in Nenana, and was joined by Hudson Stuck, Harry Karstens, and Robert Tatum. With them were Johnny Fred and Esaias George, who provided support. "Everything they had was what they brought with them." They encountered a myriad of obstacles and bad luck; they lost most of their gear in a fire. The group was able to reach the summit; Karstens and Stuck claimed that if it hadn't been for Walter Harper, they would have never summited.

**SENATOR BISHOP** continued by saying that Walter Harper met his future wife while recovering from typhoid fever in a hospital in Fort Yukon; she was a nurse; they fell in love and were married. They were bound for the Lower 48 on the Princess Sophia when it ran aground [in the Lynn Canal on October 25, 1918]. He was on his way to medical school so that he could return and practice medicine in Fort Yukon. He and his wife perished with the rest of the passengers aboard the steamer. They are buried in the Evergreen Cemetery in Juneau.

[3:09:02 PM](#)

DARWIN PETERSON, Staff, Senator Click Bishop, Alaska State Legislature, paraphrased from his written testimony, which read:

- Walter Harper's name is permanently stamped in Alaska history because he was the first person to reach the summit of Denali on June 7, 1913.
- SB 144 proposes to honor this great Alaskan by designating June 7<sup>th</sup> of each year as Walter Harper Day.
- There were six people on the expedition team: (None of these men had technical climbing experience on a mountain like Denali. Prior to 1913, there were 11 unsuccessful attempts to summit Denali.)
  - **Hudson Stuck** (expedition leader) 50 years old. The Episcopal Archdeacon of the Yukon.
  - **Harry Karstens** (expedition leader) 35 years old. He was an accomplished outdoorsman, a miner, a packer, and a guide. He later became the first superintendent of Denali National Park from 1921 to 1928.
  - **Robert Tatum** - 21 years old. Robert was a theology student from Knoxville Tennessee who was working at the Episcopal mission in Tanana when Hudson Stuck invited him to join the expedition.
  - **Walter Harper** - 20 years old. He was Stuck's protégé.
  - **Johnny Fred** and **Esiais George** were two 17 year old boys from St. Mark's Episcopal Mission in Nenana. They were selected by Hudson Stuck to accompany the team to base camp, haul supplies and hunt for food. Neither Johnny nor Esiais would join the rest of the team on the ascent. The plan was for Esiais to return to Nenana with one dog team while Johnny stayed in base camp.
- Stuck, Karstens and Harper launched the expedition from St. Mathews Church in Fairbanks on March 13. They traveled by dog sled to Nenana where they met up with the rest of the team - Robert Tatum, Johnny Fred and Esaiias George. On April 11, they had their base camp set up and started planning their ascent.

- The team had shuttled 3,000 lbs. of equipment and supplies in backpacks and would continue moving a cache of gear, including several cords of firewood, from camp to camp up the mountain.
- They estimated that in ascending the 20,000 foot peak, the men climbed 60,000 feet altogether.
- On May 2nd, they had relayed their cache to the midway point of Muldrow Glacier at 10,800 feet when disaster struck. They lost a great deal of their gear, including tents, clothes and food when their cache caught fire. (A match tossed by Karstens or Stuck after smoking their tobacco pipes).
- Despite the setback, they continued climbing and on June 7<sup>th</sup>, Walter became the first human to set foot on the summit of Denali with the other three members of the expedition arriving after him.
- Stuck concluded that Walter could have climbed another 10,000 feet based on his condition at the summit. Harry Karstens referred to Walter as "fearless" and Stuck attributed a great deal of their success to Walter's exceptional stamina and his ability to always maintain complete self-composure in the face of any hardship.
- As extraordinary as this achievement was, it's not the only reason we should celebrate Walter Harper.
- Born in Tanana in December 1892, Walter was the youngest of eight children. His mother was Jenny Albert, a Koyukon Athabascan and his father was Arthur Harper, an Irishman who emigrated in 1847.
- Arthur was a well-known prospector and trader in the Yukon basin. In fact, his widespread prospecting, numerous discoveries and his prolific letter writing to outsiders about the gold prospects in the Yukon won him the recognition as the discoverer of gold in the region and he was credited with starting the Klondike Gold Rush.

- But Walter never knew his father personally because his parents split up when he was two years old. It was Walter's mother, Jenny, who had the greatest impact on his formative years. She raised Walter in the Athabascan traditional way of life and he spoke the Koyukon-Athabascan language.
- When Walter met Archdeacon Stuck at a fish camp in 1909, he began attending school at the St. Mark's mission in Nenana. He was 16.
- Being so impressed with Walter's ability, Stuck hired him the next year when he was 17 years old to be his winter trail guide, riverboat pilot and interpreter throughout his missionary travels along the Yukon.
- The Archdeacon tutored Walter and in the proceeding years, Walter seamlessly integrated into his father's Western culture without forfeiting an ounce of his mother's Athabascan heritage.
- After the Denali expedition, in the fall of 1913, Walter traveled outside with Stuck to continue his formal education in Massachusetts where he attended the Northfield Mount Hermon preparatory school through 1916. That same year he returned to Alaska to continue working with Archdeacon Stuck in preparation for college.
- In 1917, Walter became ill with Typhoid fever. While he was recovering in the Fort Yukon mission hospital, he fell in love with his nurse Frances Wells, who devoted herself to his care. On September 1<sup>st</sup>, 1918, they got married in Fort Yukon.
- Seven weeks later, the newlyweds boarded the Princess Sophia in Skagway bound for Seattle with their final destination being Philadelphia so Walter could attend medical school. After which, the couple planned to return to Alaska so Walter could serve his people as a medical missionary.
- Sadly, their future dreams were never realized because they both died along with the rest of the passengers when the Princess Sophia ran aground in the Lynn Canal on October 25<sup>th</sup>, 1918.

- After their bodies were recovered, Walter and Frances were buried beside each other in the Evergreen Cemetery here in Juneau.
- Walter's untimely death denied Alaska the legacy of a respected Elder a full life would surely have provided.
- However, we feel strongly that passing SB 144 is a fitting tribute to honor this great Alaskan who lived his life with excellence, integrity and resilience.
- In fact, Congress saw the wisdom in honoring the accomplishments of Walter Harper. In 2013, Congress passed the Denali National Park Improvement Act that included a bill sponsored by Senator Lisa Murkowski, naming the Talkeetna Ranger Station after Walter Harper. Anyone who intends to climb Denali must first stop at the Walter Harper Ranger Station to get their permit.

[3:16:01 PM](#)

CO-CHAIR FIELDS expressed his appreciation for the proposed legislation.

REPRESENTATIVE STORY stated that naming a day for Walter Harper would ensure that Alaska's youth and current and future residents know about a short-lived but powerful life.

[SB 144 was held over.]

**HB 74-COMM. VESSEL ENVIRONMENTAL COMPLIANCE/FEE**

[3:17:29 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the next order of business would be HOUSE BILL NO. 74, "An Act repealing the ocean rangers program; and providing for an effective date."

[Before the committee was committee substitute (CS) for HB 74, Version 31-GH1117\S, Marx, 2/10/20, adopted on 2/11/20.]

CO-CHAIR KREISS-TOMKINS took a brief at-ease.

[3:21:14 PM](#)

CO-CHAIR KREISS-TOMKINS opened public testimony during the hearing on CSHB 74.

[3:21:44 PM](#)

TERRY HAINES, Councilmember, City of Kodiak, expressed his belief that the concept behind CSHB 74 was promising. Under the proposed legislation the ocean rangers would be replaced by Department of Environmental Conservation (DEC) personnel, who would have more authority and more ability to do testing. He said that given the cost of the ocean ranger contract, there would be "leeway to get quite a bit done." He expressed his interest in funds for communities to improve wastewater treatment systems. He said that for Kodiak to comply with the Environmental Protection Agency (EPA) mandate, it must construct an ultraviolet plant to treat wastewater before release. He maintained that anything the city does to make its wastewater cleaner is an improvement and of benefit to the business community; the Alaska brand of pristine waters is what keeps people coming to Alaska on cruise ships. He offered that CSHB 74 would serve a need in Alaska communities.

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JACK SLAGHT relayed that he holds a chief engineer unlimited license in the U.S. Merchant Marine and understands the workings of sewage treatment plants and oily water separators on ships. He expressed his concern that cruise ship companies, which have a poor track record of caring for American coastal waters, not be allowed to operate unmonitored. He stated that adequately treating water on shore and on ships is expensive. He advised lawmakers to ensure that if ocean rangers are eliminated from ships, then DEC personnel should oversee ship operations.

MR. SLAGHT confirmed for Representative Fields that he spent 25-30 years as a marine engineer. Before that he was a logger, timber faller, diesel mechanic, and in other occupations. He maintained that he is not against "people making profits and corporations succeeding," but his concern is that Alaska keep its waters safe for the marine environment.

CO-CHAIR FIELDS asked whether inspectors should be limited to marine engineers or whether other potential licenses or training would be adequate for that task.

MR. SLAGHT responded that DEC personnel probably would not understand how the systems work as well as marine engineers; however, they would be able to test effluent released from ships and the treated sewage, and they could examine levels of fecal coliform and chlorine. He suggested that oily water separators would probably be under the purview of U.S. Coast Guard marine safety inspectors; however, a seasoned, experienced, knowledgeable, and licensed marine engineer officer would fully understand oily water separators and sewage treatment plants.

3:29:03 PM

TIM NELICK relayed that he is a career merchant mariner and has been an Alaska ocean ranger since 2012. He referred to the proposal under CSHB 74, which would replace the ocean rangers with DEC staff, and expressed his opinion that contract workers are generally more efficient and cost-effective than government workers. He related his experience operating vessels since 1970. He said that he knows how ships operate, knows their impact on the environment, understands maritime regulatory compliance, and understands the lack of compliance. He stated, "I would guarantee that without a rigorous regimen of verification, such has been provided by the rangers embarked on the passenger vessels in Alaskan waters, regulations will be broken." He maintained that whether it is done by contract ocean rangers or DEC staff, rigorous regimen is required. The forms of pollution include: wastewater; sewage; oil; oily waste; exhaust gas; scrubber discharge; chemicals from pools, spas, and barber shops; spillage of paint; incidental chemicals from crew exterior maintenance; air pollution from the engines and incinerators; garbage; and other pollutants. He stated, "There are no reliable technical means for remotely detecting these types of pollution, particularly when the ship - unlike a stationary industrial site - gets underway, moves out of the view of the scrutiny of shoreside oversight." He offered that regarding the technical devices that have been mandated - the oily water separators and the oil content monitors - workarounds can be devised and rapidly implemented. "Simply knowing - perhaps remotely - when valves are open and closed doesn't tell us the whole story. What's flowing through those valves into the waters of Alaska?" He maintained that logbook entries are "simply ink on paper."

MR. NELICK relayed that in 2006, the voice of the Alaskan citizenry was heard, and the Alaska Ocean Ranger Program was initiated. Since then, opinion has not changed, and the passengers of the vessels - from what he had heard - agree with

the mission of the program and are willing to support the program. He said, "The rangers are the eyes, ears, and nose of the State of Alaska 24 hours a day. Even our presence on board, in and of itself, is a deterrent." He offered that self-reporting of violations would likely decrease substantially as a result of ocean rangers no longer being on board vessels. He said that the program is self-funding; it is desired by the electorate; it is desired by the passengers; and technical means cannot replace the work of the ocean rangers. He suggested that only a few vested interests oppose the Ocean Ranger Program.

CO-CHAIR FIELDS asked whether the statute should continue to require that a marine engineer conduct the inspections or whether other options could be considered.

MR. NELICK emphasized the importance of environmental protection to marine engineers; others may not have that dedication; and there are ways to circumvent the proper operation of much of the [pollution detection] equipment. He expressed his belief that qualified marine engineers are what is needed - whether ocean rangers or DEC staff. He asserted that knowledge of the machines - their operation and how they can be circumvented - is necessary.

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CO-CHAIR KREISS-TOMKINS asked for the scope of expertise of a marine engineer.

MR. NELICK replied that marine engineering is a skilled trade; it often begins with a degree in engineering, but on-the-job training can be substituted. The job of the marine engineer is to operate, maintain, and repair all the machinery necessary for a modern vessel to operate.

CO-CHAIR KREISS-TOMKINS offered that the scope of the marine engineer is any system on board that keeps the vessel functional, including wastewater treatment and heating, ventilation, and air conditioning (HVAC).

MR. NELICK concurred and added electrical power generation, plumbing, and hydraulics; he concluded that it is a broad scope of practice.

CO-CHAIR FIELDS asked for a listing of the various waste streams aboard a ship.

MR. NELICK mentioned the following: wastewater - which includes graywater and sewage; wastewater streams from the galley, swimming pools, spas, and barber shops; oil and oily waste; incidental waste streams from everyday maintenance - chemicals and cleaners; and garbage from the passengers. He cited the new exhaust gas requirements making air pollution a consideration with engine discharges and the exhaust of the incinerators.

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CO-CHAIR KREISS-TOMKINS asked Mr. Nelick whether he is an active ocean ranger and for a description of a typical day of an ocean ranger.

MR. NELICK answered that ocean rangers serve as the eyes, ears, and nose of the State of Alaska. In a 24-hour day he maintains irregular work hours; he meets with the environmental officer to coordinate operation of equipment and maintain logbooks; he performs rounds with the officer to locations on the ship from which waste streams are generated. Waste streams generated by the engine room are of primary concern. He said he spends several hours with the environmental officer and other officers who are immediately involved with the operations associated with wastewater. Findings are consolidated into a report which is sent to the ocean ranger team leader and on to DEC.

MR. NELICK continued by saying that if there are signs of a violation or of pollution, the observations will be reported. The observations may be discoloration of the water, heavy stack emissions, an unopened valve, the smell or sight of effluent causing concern. He added that rangers also observe wastewater samplings by the third-party [wastewater] analysis company.

[3:44:09 PM](#)

CO-CHAIR KREISS-TOMKINS asked for more information on the analysis company.

MR. NELICK replied that the company is Admiralty [Environmental] in Juneau; there are 20-plus parameters that need to be tested in the ship's wastewater effluent; testing is beyond the scope of ocean rangers and shipboard staff, but rangers do witness the sampling. The samples are sent to the company and analyzed.

[3:46:05 PM](#)

REPRESENTATIVE THOMPSON asked how often the sampling and tests occur.

MR. NELICK responded that it is common for a sampling event to occur on every ship with an ocean ranger in the summer. He estimated that it occurs several times per month, which includes announced samplings.

CO-CHAIR KREISS-TOMKINS asked what level of confidence an ocean ranger can have that rules are being followed considering the sheer size of the ships, number of systems on board, pipes, and technology and the fact that an ocean ranger can be only at one place at a time and must sleep.

MR. NELICK acknowledged that the ships are huge, and one person can't be all places at one time every moment of the day. He offered that ocean rangers do the best they can. He reminded the representative that they are observers and not inspectors. He said that much of what they do relies on intuition as engineers - judging appearances, smells, and sounds; interacting with the crew; assessing crew attitudes toward environmental concerns; hunches and gut feelings; noticing small irregularities. He stated that he tries to keep an irregular schedule and be unpredictable in what he checks. He said, "I would be less than forthright to suggest we would catch every single instance of a bad actor, but I would suggest to you that having us try to make the observations we can, as many as we can, gives us a better chance at it."

[3:50:35 PM](#)

CO-CHAIR KREISS-TOMKINS asked, "To what extent do you feel like there's a sort of a cat-and-mouse dynamic with the ship or staff on board" versus the feeling that everything is forthright and "you're just sort of checking boxes." He asked for the spectrum encountered on different ships and different companies.

MR. NELICK answered that in his experience, much depends on the rapport he establishes with the environmental officer on the ship. He relayed that in his estimation, over the years these officers have become more "tuned in" to sincere protection of the environment. In the past they were assigned these duties but normally had other duties. He added that currently when he meets with a dedicated, professional, environmental officer, the officer has a college level or graduate level degree in marine sciences and - in his estimation - tend not to be deceptive or less than forthright. He said that it could always change; he

is not a mind-reader. He acknowledged there are times when someone seems to be hiding something, which spurs his interest; but often the ship staff seem to support the overall goal of protecting the environment and are putting forth that effort.

CO-CHAIR KREISS-TOMKINS asked for confirmation that the answer is, "It's a spectrum; it's a spread."

MR. NELICK agreed. He offered that efforts on board are improving and ocean ranger scrutiny played a part.

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CO-CHAIR KREISS-TOMKINS referred to Mr. Nelick's testimony that ocean rangers are observers and asked about the contents of the communication to DEC when reporting a finding.

MR. NELICK answered that there are different reports for different events. A more impactful observation would receive more prompt attention. A report of a spill goes immediately to DEC and to the U.S. Coast Guard. Most of the time a report would go through the ocean ranger manager.

CO-CHAIR KREISS-TOMKINS referred to testimony by Commissioner Jason Brune (DEC) that there were six notices of violation (NOVs) generated by the Ocean Ranger Program since its inception. He asked whether six NOVs reflects a high level of compliance by the industry.

MR. NELICK responded, "No ... that would not be my interpretation." He offered that the NOV process is not initiated by the ocean rangers; ocean rangers submit their observations; whether those observations are processed as NOVs is up to DEC. He suggested that the statistic may be misleading for that reason. He offered that some ocean rangers are frustrated when their findings result in no action. He suggested the committee ask that question of the other ocean ranger testifiers.

[3:57:09 PM](#)

GERSHON COHEN relayed that his involvement with the cruise ship industry and wastewater discharges and violations spans 20 years; he served five years on the Commercial Passenger Vessel Environmental Compliance task force in the early 2000s after it became widely known that there had been widespread felony convictions throughout the industry in six U.S. jurisdictions

including Alaska. He stated that the task force was not able to convince DEC to pass any regulations of note to control ship discharges. Consequently, the voter-approved Ballot Measure 2 was passed [2006] creating the Ocean Ranger Program; he was one of its authors.

MR. COHEN maintained that CSHB 74 "hopes" for oversight rather than "requires" it. He stated that currently statute requires ocean rangers to be on board ships and requires them to perform certain duties. The proposed legislation: 1) would repeal the Ocean Ranger Program in its entirety; and 2) states that the department can adopt regulations that may or may not result in inspections by DEC staff or independent contractors while a ship is underway. He cited page 2, lines 25-31, of CSHB 74, which read:

(c) While a commercial passenger vessel is present in the marine waters of the state, including while underway, the department, or an independent contractor retained by the department, may

(1) inspect systems that affect air emissions or collect, treat, or dispose of wastewater; and

(2) collect additional samples of the vessel's treated sewage, graywater, and other wastewaters being discharged into the marine waters of the state.

MR. COHEN pointed out that "may" presents a "very different world" from requiring in statute that inspections be performed by someone on board.

[4:00:00 PM](#)

MR. COHEN noted that Commissioner Brune has made statements suggesting that the Ocean Ranger Program was unnecessary and unfair: unfair in the sense that Alaska does not observe other dischargers in the way that it observes the cruise ship industry; and unnecessary because of the low number of NOVs that have occurred in the past 12 years. He responded that "there is a world of difference" between a land-based discharger and a marine discharger; they cannot be compared. He said that a land-based discharger is stationary; DEC can visit it at any time; and the discharge itself is fixed. An analysis of background conditions can be performed to measure changes over time in the area. A marine-based discharger presents a completely different situation, especially with 30-plus ships

traveling up and down the inside passage over the course of the summer. Multiple ships may discharge in the same waters on the same day. That is why an ocean ranger needs to be on board.

MR. COHEN continued by saying that Commissioner Brune's comments also seem to ignore the history of felony convictions. He said that he is not aware of any other industry in Alaska with the history of felony convictions like the cruise ship industry as far as purposefully dumping pollutants overboard that contaminate public waters. He mentioned that although there have been only six NOV's over the course of the program, there have been over 300 incident reports referred to DEC that did not become NOV's. He relayed that regarding electronic monitoring, it can provide information - when valves are open, the system with which the valve functions, the ship with the valve, the length of time the valve is open, and the volume of discharge; however, it does not relay whether the equipment was "hacked" or bypassed. He maintained that repeatedly members of the industry have bypassed pollution control equipment to discharge pollutants and falsified logbooks. He said that happened 20 years ago, and it happened just a few years ago. In 2016, Princess Cruise Lines was convicted of purposefully bypassing oil bilge water separators and submitting falsified logbooks to the U.S. Coast Guard. He emphasized that these events support having ocean rangers on board.

MR. COHEN offered that in addition to their duties as marine engineers looking after the equipment on board, ocean rangers are responsible for a broader set of public health related observations. He mentioned the recent events with coronaviruses on cruise ships and stressed the importance of having an ocean ranger on board to monitor respiratory illnesses and the infirmity. He concluded that ocean rangers perform many duties that cannot be replaced by electronic monitoring; and under CSHB 74, electronic monitoring is not required but only incentivized by a reduced fee. He maintained that the entire monitoring and reporting system under the Ocean Ranger Program would be eliminated with repeal of the program; the proposed legislation would replace the program with a "hope" that DEC would adopt meaningful regulations. He offered that public opinion on the program has not changed; the program is paid for by fees from the passengers; and there is no reason to discontinue it. He added that regarding the use of the passenger fees for shoreside facilities, he doubts that the tonnage clause [requiring the fees be used to benefit ships, not passengers] would allow it.

[4:07:47 PM](#)

CO-CHAIR FIELDS asked Mr. Cohen's opinion on the repeal of the opportunity for citizens' suits [AS 46.03.481] under the proposed legislation.

MR. COHEN stated that there have been no citizen suits since the program started; however, he maintained that it represents an opportunity for the public to hold the agencies and ship staff accountable. He said he would not like to see that section repealed.

[4:08:44 PM](#)

CHRIS SCHNEIDER testified that he has been an ocean ranger for eight years. In his experience the cruise ship industry has been good for tourism in Alaska. He mentioned the thousands of employees on board and said that mistakes can be made. He maintained that having ocean rangers on board serves as a good deterrent [to polluting] and sets priorities [for ship staff]. He expressed his belief that there has not been enough transparency with the Ocean Ranger Program; the public is not aware of the program; and reports should be made public. He stressed that before eliminating a program that the public voted to have, the public should see the product of that program.

CO-CHAIR FIELDS asked whether marine engineers have the right qualifications to do inspections.

MR. SCHNEIDER opined that using marine engineers is the easy way to administer the program; they are very familiar with the equipment. Other people could be trained, but it would be difficult and take a long time.

CO-CHAIR FIELDS asked Mr. Schneider what percentage of sailings should have an inspector on board - either an ocean ranger or a DEC employee.

MR. SCHNEIDER answered, "The more the better." He maintained that having inspectors on board has been an effective deterrent. He suggested that using only DEC staff would not be optimal; it is difficult traveling in Southeast Alaska, even in the summer. He mentioned that a mix of ocean rangers and DEC employees might work out well. He stated that it is difficult to determine the effectiveness of the program. He referred to the court-appointed monitors required by the U.S. Department of Justice (USDOJ) after Carnival Cruise Lines was cited [for environmental violations and falsifying records]; teams of auditors flew in to

perform monitoring. He maintained that violations were found to have occurred in many places but not in Alaska.

[4:13:44 PM](#)

ROBERT LAYKO relayed that he has worked in the cruise ship industry for 40 years - 20 years as a marine engineer and 8 years as an ocean ranger. He maintained that if ocean rangers were not on board ships, there would be many more incidents; many would go unnoticed until it was too late. He stated that as an ocean ranger, he would meet with the ship's environmental officer and review the waste streams on ship. He described the treatment of food waste on board; it is pulped and discharged into the ocean; it is often contaminated with non-food items, which must be discarded before discharge. He also mentioned pollution caused by paint chips; crews are continually painting the ships; sometimes they neglect to use containment for paint chips. He reviewed the duties of the ocean ranger: monitor wastewater and any waste, look for pollutant discharge into the ocean, watch for illnesses, check sanitation practices, note any potential hazards, and keep records. He maintained that without ocean rangers on board, ship staff would just "do what they want to do." He offered that DEC would not be able to effectively monitor the ships, if inspection is performed only while the ship is in port. He said that the program is working; he has confidence that ocean ranger presence makes a difference. He maintained that [marine engineer] experience is important for effective monitoring. He added that the ships are only getting bigger with more impact; he was on three ships last year with 6,000-plus people on board. He maintained that the few NOV's is due to ocean rangers being on board ships. He mentioned the violation that occurred in Glacier Bay National Park and Preserve [the illegal discharge of gray water in the park on 9/11/18]; there was no ranger on the ship; electronic monitoring would not have discovered the discharge. He emphasized that if the program is eliminated, Alaska would have many more problems.

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JEFF HOKKANEN testified that he was one of eight Alaskans in last year's Ocean Ranger Program and has worked in the maritime industry in Alaska since 1981. He stressed the importance of good salaried jobs that the Ocean Ranger Program provides, funded by passenger fees at no cost to Alaska, and having a trickledown effect for the Alaska economy. He stated, "The governor wants to repeal the program that I and many other Alaskans voted for." He said, "Don't be fooled by all the

reasons that the commissioner gives for repealing the program." He opined that Governor [Michael J. Dunleavy] wants to use the funds to "grow government." He offered that it would be more beneficial to keep the program as the voters wanted - to produce jobs and protect the safety of the passengers and the environment. He shared that ocean rangers can rectify situations that can potentially cause problems.

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JOHN CLIFTON PASSMORE, paraphrased from his written testimony, which read [original punctuation provided]:

My name is John Clifton Passmore and I am representing myself. I am a resident of Eagle River, a US Coast Guard licensed master mariner and an Ocean ranger. I watched this Committee's previous hearing on HB 74 and I would like to make a few comments.

First of all, there are a few good ideas in the bill. Requiring the cruise lines to submit data in an approved format should save the state time and money and is in line with requirements for other monitoring programs.

Random inspections may also be a way to improve the program, although as I explained in my written testimony, the devil will be in the details.

When voters including myself passed the ballot initiative in 2006 establishing the Ocean Ranger program it was out [sic] intent that the funds collected for the Ocean Ranger program be used for onboard monitoring by licensed engineers or equivalently qualified individuals. Marine engineer[s] are senior vessel personnel, ship officers, that meet national and international standards for training and competency. Licensed engineers, together with licensed deck officers, are the men and women who operate the ships. We are, contrary to statements by Commissioner Brune, more than qualified to monitor cruise vessels. The US Coast Guard has determined that we are qualified [to] be legally responsible to operate large vessels and follow all applicable laws, including environmental laws. Most of us have unlimited tonnage licenses, in other words, any vessel, any tonnage, any waters, and many Ocean Ranger[s] are licensed chief

engineers, which is the highest engineering rating. 2 of us are master mariners and could take command of any vessel, including cruise ships. We are the experts on operating large vessels, and this is the reason Ocean Ranger[s] are required to be licensed engineers or equivalent.

Upgrading sewage treatment facilities in ports visited by cruise ships is a good idea, but diverting funds from the Ocean Ranger program is not the most appropriate source. More appropriate sources include revenue collected from cruise ships that is not designated for the Ocean Ranger program.

Princess Cruise lines and its parent company Carnival, are on probation for environmental violations and were found in violation of conditions of probation in June of 2019 and fined \$20 million. My written testimony included a link to the Court Appointed Monitor's report from December 2019 showing a culture and pattern of repeated violations of environmental laws, including using heavy fuel near Glacier Bay last August. If there is any doubt that some cruise lines are not capable of policing themselves and cannot be trusted to do the right thing, a few minutes of review of this document will remove any doubt. Now is not the time to remove monitoring requirements from convicted felons that repeatedly violate conditions of probation and allow them to police themselves, which is exactly what HB 74 proposes.

CO-CHAIR FIELDS asked Mr. Passmore to comment on reports of violations sent to DEC which don't officially become NOVs.

MR. PASSMORE replied that with the exception of a spill - which would require immediate action - ocean rangers report violations to vessel personnel, send it to the [ocean ranger] company, and the company sends it on to DEC; it is DEC's decision whether to make it an NOV. Some incidents are minor.

CO-CHAIR KREISS-TOMKINS asked whether ocean rangers have reported more serious violations that they thought constituted a harm to clean water but did not generate an NOV.

MR. PASSMORE answered, "I believe so but I'm hearing them second hand so ... I would hate to say for sure."

REPRESENTATIVE VANCE asked for confirmation that most marine engineers have the capacity to take command of any vessel.

MR. PASSMORE answered that one must be a captain to take command, but they can be responsible for all the machinery and all the equipment on the vessel, including the pollution-related equipment.

REPRESENTATIVE VANCE asked whether at any point an ocean ranger would need to assume authority [as captain].

MR. PASSMORE replied, "No. We have the same licenses that the guys that are operating the vessels do, so we understand what to do."

[4:28:53 PM](#)

REPRESENTATIVE HOPKINS asked about the qualifications to be an ocean ranger and if there is an internship program for it.

MR. PASSMORE answered that the process for getting a marine engineer's license or a deck license is generally a 4-year degree through an academy and a series of tests; to advance to a chief engineer takes another 1,060 days plus testing and classes. He maintained that marine engineers become very experienced through the process.

CO-CHAIR KREISS-TOMKINS asked about Mr. Passmore's personal experience on board regarding the "cat-and-mouse" versus "boy scout" spectrum question that he posed to Mr. Nelick.

MR. PASSMORE said that he has seen less of the cat-and-mouse and more of either apathy or ignorance. He mentioned a discharge of spa water because someone just started the job and didn't know any better. In the incident of the paint chips going into the ocean, the workers had the containment available but neglected to move it to where they were working.

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REPRESENTATIVE VANCE suggested the possibility of "hybrid" legislation to implement the "positives" in the proposed legislation. She stated that the fiscal note (FN) for CSHB 74 [Office of Management & Budget (OMB) component Number 3204, page 2] requests two new Environmental Program Specialists and two Engineers; therefore, although the Ocean Ranger Program would be eliminated, the DEC hires would have the authority of DEC to act

immediately instead of through the [third-party] company and DEC staff. She asked if that scenario offers using the expertise of the engineers in a greater capacity.

MR. PASSMORE responded, "Possibly" but added that there would not be a shipboard presence - or a shipboard presence would be very rare; a shipboard presence is needed.

REPRESENTATIVE VANCE referred again to page 2 of the FN to point out that it states, "approximately 45 in-state trips would be required for inspectors". She offered that the hope is that Alaska would not be eliminating marine engineers and their expertise but giving them more authority to act immediately - cutting out the middleman. She maintained that expertise without authority is not utilizing the personnel for maximum impact. She urged the committee to look for a happy medium and accept that change can be good. She suggested that there is angst over the proposed legislation related to "something is completely being lost"; her hope is to gain through CS HB 74; more discussion is needed to determine what the regulations would be.

CO-CHAIR FIELDS asked for the number of ocean rangers at sea doing inspections at any given time during the summer.

MR. PASSMORE replied, around 15.

CO-CHAIR KREISS-TOMKINS asked for the name of the company that had the Ocean Ranger Program contract.

MR. PASSMORE answered that it was Crowley [Maritime Corporation].

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JOE GELDHOF testified that he was one of the principle authors of the [Ballot Measure 2] initiative; he has been an Assistant Attorney General; and he has been on contract with the Alaska State Senate to address cruise ship revenue issues. He relayed other work he has done relating to the maritime industry. He stated that the large passenger vessels sailing in Alaska present a significant regulatory challenge in terms of protecting Alaska's marine waters. Vessels are mobile; there are upwards of 1.5 million passengers on the vessels; it is a dynamic industry; it is a capital- and labor-intensive industry; the industry makes a great deal of money and provides many good opportunities for Alaskans and visitors to the state. He said,

"I am not here to try to throttle the large [passenger ship] industry; they have been good to Alaska; but they have real problems with their marine and air discharges." He pointed out that CSHB 74 focuses more on marine discharge, which is a serious issue. He said that in addition to the passengers, there is upward of 400,000 crew, who also create a large waste stream.

MR. GELDHOF stated that DEC has had a casual attitude in dealing with [waste discharges]; the attitude predates the current administration; it is the reason citizens passed Ballot Measure 2 in 2006. He said that the leading proponents of the Ocean Ranger Program and onboard monitoring were Alaska's fishing fleet and Alaska Native women, out of concern for what was being released into the waters. He continued by expressing his belief that there is room for improvement in the existing program; he offered his support for some electronic monitoring both to save money and to provide real-time data for regulating industry - whether by contract or by DEC. He said that the onboard observer under the Ocean Ranger Program is a vital component of enforcing Alaska's water quality standards. He compared eliminating onboard observers with eliminating Alaska State Troopers and relying on probation officer to do occasional checks.

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MR. GELDHOF challenged the committee to make the proposed legislation "the best possible bill." He said that could be accomplished by requiring some limited monitoring; video monitoring of the electronic monitoring is also a possibility. He mentioned broadband and technical issues and the possibility of legal issues regarding requiring hardware on ships. In order to get data from the ships, the State of Alaska could offer to incentivize or pay for electronic monitoring devices. He maintained that Alaska needs to know when ship valves are open; Alaska can use modern technology to improve enforcement and protection of its waters. He emphasized that there needs to be at least some ocean rangers; the department has the discretion to put rangers on ships that have demonstrated repeated patterns of abuse.

MR. GELDHOF maintained that it is the legislature's responsibility to establish in law the minimum standards for protecting Alaska's waters and the public's resources; the department's job is to determine how best to administer that law. He asserted that CSHB 74 gives DEC too much discretion for

setting standards through regulations. He supported unannounced inspections and a layered monitoring approach - some full, some part-time, some occasional through port inspections. He recommended amplification of the existing penalties [for violations] determined by reviewing the reports and the fines. He said that by not examining and evaluating the value of Alaska's marine waters, Alaska is doing its visitors and its citizens a disservice. He pointed out the legal problems with using passenger fees for improvement of shore sites; there must be a strong nexus. He recommended that the existing financial framework be kept in place with the \$4 dollar per passenger ocean ranger fee to operate the program to facilitate budgeting. He suggested adding a \$3 surcharge to capitalize improvements to shore side facilities in places that experience ship discharges; he suggested sunseting the surcharge after ten years. He concluded by saying that the ocean rangers do look at sanitation in addition to gray water and wastewater [discharges]; giving them additional authority to collect data for DEC and the Department of Health and Social Services (DHSS) on pathogens on board is a good idea. He said that the Center for Disease Control and Prevention (CDC) monitors influenza viruses in Southeast Alaska because it is often one of the first places they are detected in Alaska. He maintained that is a role for inspectors that should be explored.

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CO-CHAIR KREISS-TOMKINS closed public testimony on CSHB 74.

[CSHB 74 was held over.]

**HB 239-ESTABLISH STATE LOTTERY BOARD/LOTTERIES**

[4:47:33 PM](#)

CO-CHAIR KREISS-TOMKINS announced that the final order of business would be HOUSE BILL NO. 239, "An Act establishing a state lottery; providing for participation in multi-state lotteries; establishing the Alaska State Lottery Board in the Department of Revenue; relating to confidentiality of information regarding lottery winners; requiring background investigations by the Department of Public Safety; and providing for an effective date."

[4:47:54 PM](#)

REPRESENTATIVE THOMPSON, as prime sponsor of HB 239, relayed that the proposed legislation would create an Alaska State Lottery Board in the Department of Revenue (DOR), would authorize the board to conduct in-state lottery draw games, and would allow participation in multi-state lotteries. He stated that he and his staff explored the possibility of a lottery as a revenue stream for the state. He said that DOR estimates that an in-state and multi-state lottery would net the state \$5-10 million per year. He further stated that HB 239 would only allow the purchase of draw tickets so as not to affect the nonprofit gaming industry's ability to raise money through charitable gaming pull-tabs and bingo; therefore, the proposed legislation does not include scratch-off instant winner tickets or video games. He mentioned problems with gambling addiction being related to instant gratification gaming. He suggested that a draw game type lottery, with a once-a-week draw, would not encourage addictive gambling behavior as would an instant winner lottery. He mentioned research by staff into other states with lotteries and the identification of expert witnesses to testify at the next hearing.

REPRESENTATIVE HOPKINS referred to the smaller states with lotteries, like Wyoming and North Dakota, and posed the question: How much money is raised for the states and given out in the lotteries, and how many people apply for them?

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SETH WHITTEN, Staff, Representative Steve Thompson, Alaska State Legislature, replied that the Chief Executive Officer (CEO) of the Wyoming Lottery Corporation will testify at the next hearing on HB 239 to answer questions.

REPRESENTATIVE STORY asked Mr. Whitten whether he has seen studies on state lottery impacts on low income populations.

MR. WHITTEN asked whether Representative Story was referring to the impact of problem gambling.

REPRESENTATIVE STORY said, "Sure, that could be one, but just in general." She mentioned that the comment regarding once-a-week draw games versus instant [win] games suggests staff may have obtained information on the impacts of state lotteries.

MR. WHITTEN relayed that through research, staff found that there are three factors that contribute to problem gambling and gambling addiction: event frequency - how often and how rapidly

a person can play; frequency of winning prizes; and how quickly a person gets the reward for a prize. He said that these three factors consistently appear in the psychological research that he has reviewed. He will provide the committee with the research.

MR. WHITTEN stated, "In terms of lottery spending ... the lowest 20 percent of the population does spend 61 percent of the entire gross spending on lottery." He said that the percentages are skewed by the large number of instant win games; the percentages are not as extreme when considering only draw games. He offered to provide more information to the committee on the breakdown of percentages.

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CO-CHAIR FIELDS asked for data on the impacts distributed across income ranges.

MR. WHITTEN agreed to provide that information.

CO-CHAIR KREISS-TOMKINS asked that HB 239 and the governor's proposed legislation [SB 188 and HB 246] be compared and contrasted.

REPRESENTATIVE THOMPSON replied that the differences between the bills will be discussed at the next hearing on HB 239.

REPRESENTATIVE STORY asked where the revenue generated by the lottery - an estimated \$5-10 million - would go, whether the general fund (GF) or a designated fund.

REPRESENTATIVE THOMPSON answered that some consideration was given to this question while drafting the bill. It was suggested that a percentage could go to education; however, with the fear that putting \$5 million into education might lead to a \$5 million reduction in the education budget, it was decided that the legislature should decide how to use the money.

CO-CHAIR KREISS-TOMKINS stated that HB 239 would be held over.

[4:56:38 PM](#)

**ADJOURNMENT**

There being no further business before the committee, the House State Affairs Standing Committee meeting was adjourned at 4:56 p.m.