

3-17-82

HB 806

HB 886

HOUSE LABOR & COMMERCE
STANDING COMMITTEE
March 17, 1982
1:08 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice Chairman
Rep. Randolph
Rep. Gardiner

Members Absent: Rep. Rogers

COMMITTEE CALENDAR

HB 806 An Act relating to hazardous or toxic substances.

HB 886 An Act relating to financial statements of corporations.

WITNESS REGISTER

Nancy Lord
Representative Brian Rogers
Pouch V
Juneau, Alaska 99811
465-4925
Position Statement: Presented HB 806 on Rep. Rogers' behalf.

Pete Hellstrom, Environmental Coordinator
ARCO Alaska, Inc.
PO Box 360
Anchorage, Alaska 99510
265-6176
Position Statement: Requested changes in HB 806.

Richard Arab
Division of Occupational Safety & Health
Department of Labor
Box 1149
Juneau, Alaska 99811
465-4856
Position Statement: Favored HB 806.

Ernst Mueller, Commissioner
Department of Environmental Conservation
Pouch U
Juneau, Alaska 99811
465-2600
Position Statement: Supported concept of HB 806.

E.S. Rabeau, M.D.

Division of Public Health
Department of Health & Social Services
Juneau, Alaska 99811
465-3090

Position Statement: Supported passage of HB 806.

Jake Wills, legislative intern
Representative Adams
Pouch V
Juneau, Alaska 99811
465-3706

Position Statement: Presented letter from Rep. Adams regarding
HB 886.

PREVIOUS ACTION

HB 806

No previous action.

Statutory Reference: AS 18.60

Action Taken: No action taken. Bill was
set aside to wait for further information.

HB 886

No previous action.

Statutory Reference: AS 10.05.825

Action Taken: Rep. Randolph moved to report
HB 886 from committee. There being no
objection, the motion passed.

ACTION NARRATIVE

Tape #38
Recording
Number 000

The meeting was called to order by Vice-
Chairman Bylsma at 1:08 p.m. Members
present were: Reps. Martin, Bylsma,
Randolph, and Gardiner. Rep. Rogers was
absent. Rep. Martin left immediately after
the call to order. Rep. Bylsma brought HB
806 before the committee.

Number 012

Nancy Lord, staff to Rep. Rogers, presented
HB 806, which was sponsored by Rep. Rogers.
She introduced a workdraft committee
substitute dated 3/15/82; a sectional
analysis; and fiscal notes. She explained
the reason for the bill, and said there was
particular concern about the petrochemical
industry in Alaska. Lord explained each
section, and listed groups of employees who

might be affected by the legislation.

Number 095

There was discussion of the draft committee substitute compared to the original bill, and of some of the wording in the bills.

Number 130

Pete Hellstrom, environmental coordinator for ARCO Alaska, Inc., said ARCO has been developing a position paper for distribution to employees which follows the intent of the bill. He wanted changes in the bill. He believed the bill is similar to legislation enacted by other states in recent months. He was disappointed, as OSHA is developing similar information--writing enabling regulations to ensure the same type of information on the national level. He recommended the committee delay action to allow OSHA to develop their regulations. Hellstrom wanted a modification in the language to limit the degree of burden on the employer (of having to submit the same information to employees annually). Rep. Gardiner asked if he meant the employer was not required to give information unless the employee requested it. Hellstrom said yes, that the employer should not be required to redistribute information annually. Rep. Gardiner asked how an employee would know to ask if he wasn't aware of the information. There was discussion.

Number 207

Hellstrom said the advantage in delaying the bill is so the Alaska Division of Occupational Safety and Health can work with federal OSHA, then the state could enact legislation or regulations to fill in the gaps applying to Alaska. He said the disadvantage to this would be the priority of concerns, but he felt emergency enabling regulations could fill this gap.

Number 229

Hellstrom commented on the bill section by section. He felt the scope is too broad, and explained his position. He wanted to be able to report, for example, crude oil as crude oil, not crude oil from Prudhoe Bay, broken down into all the chemical properties. Rep. Gardiner asked where this was addressed in the bill. Hellstrom said it was unclear. Rep. Bylsma recommended Hellstrom submit his proposed changes in writing, as well as sending a copy of his testimony.

- Number 283 Hellstrom said ARCO had determined that the bill was burdensome to the employer. He felt it should exclude exploration and production of oil, noting that this exemption was granted by the federal government. He continued his comments on each section of the bill.
- Number 413 Rep. Gardiner asked if ARCO, in conferring with other companies, found problems in other states. Hellstrom said his comments applied to this bill, not to legislation in other states. This was discussed.
- Number 473 Rep. Bylsma asked Hellstrom to document his objections to the bill.
- Number 485 Richard Arab, Division of Occupational Safety & Health, Department of Labor, referred to their position paper. He favored the bill, as it would provide the employee with the right to know of hazardous and toxic substances he is working with. He felt the best part of the bill is the part requiring informing the employee of substances he is working with, and giving safety training. Arab spoke of OSHA enabling regulations.
- Number 539 Ernst Mueller, Commissioner of the Department of Environmental Conservation, supported the concept of the bill. He felt, from an employer standpoint, that more specificity in definitions would be appreciated. He thought some paperwork could be eliminated. Mueller suggested allowing the Department of Labor the ability to establish small quantities of substances which are exempt from the information clause. There was discussion of definitions.
- Number 676 Dr. Rabeau, Division of Public Health, Department of Health and Social Services, supported passage of the bill. He thought statutes should be broader, because regulations can be more specific. He referred to the H&SS position paper, which lists department recommendations. He thought the bill imposed reasonable guidelines, and that it would be easy to put specific substances in regulations.
- Side B, Number 000 Rep. Randolph asked clarification regarding

the crude oil industry. Rep. Bylsma asked about refined products. Mueller said this would need to be considered more carefully. This was discussed.

Number 037

Rep. Gardiner said there is a question of what OSHA will or won't do. He said it might be possible, to avoid future implications, that someone would have the authority to provide exemption, if areas were addressed adequately by federal standards.

Number 054

Jeff Barry, committee aide, explained the state's role in the OSHA act. He said if a state has more stringent laws, the state laws supersede federal laws, so there would be no duplication. He said access of records is the basis of the bill, and that the question is whether or not it is in the public interest to make employees aware of risks. There was discussion.

Number 086

Rep. Bylsma set the bill aside until the committee could obtain further information.

Number 095

The committee took up HB 886. Jake Wills, legislative intern in Representative Adams office, explained why Rep. Adams could not testify about HB 886 (which Rep. Adams sponsored), and presented the committee with a memo from Rep. Adams explaining why the bill is needed.

Number 106

Barry said, as a bill analysis, that the bill does exactly what it says: defines requirements.

Number 141

Rep. Randolph moved to report HB 886 out of committee. As there was no objection, the motion passed.

Number 145

There being no further business to come before the committee, the meeting was adjourned at 2:08 p.m.

Absent:
Rogers

3/17/82

H L+C

HB 806

Tape # 38

HB 886

1:08

000
HB 806

right after call to order

Call to order by Martin Bylsma (Martin left); brought HB 806 before committee.

012

Nancy Lord, Rep. Rogers' office, presents on HB 806 (sponsored by Rogers); introduced 3/15 work draft, sectional analysis, & fiscal notes. Explained reason for bill. Particularly concerned about petrochemical industry in state. Explained each section, ~~also~~ the listed ^{groups of} employees who might be affected by the legislation.

095

Bylsma commented he had not received the draft that morning & he had no chance to review bill.

103

Lord offered to compare the draft CS to the original bill.

107

Randolph asked why to put "known" toxic or hazardous substance in the bill; ~~felt it might be reasonable~~

116

Lord said they would only be liable for informing workers of known health hazards & precautions; she referred to definitions in bill; said emphasis is on most recent avail info.

130

Pete Hellstrom, Arco Alaska Inc, Environmental Coordinator; Arco has been developing plain paper for death to employees which follows intent of bill. Want change in bill.

Blvs bill is targeted toward "employee info right to know" to ensure employee's safety. Said bill is similar to legislation enacted by other states in recent months.

Disappointed, as OSHA is developing similar info-writing enabling reg. to ensure same type of info on nat'l level.

Recommend: comm. delay action to allow OSHA to develop reg.;

wanted mod'n in language to limit degree of burden.
(submitting annually same info)

186 Gardiner asked if he meant the emp'r was not req'd to give info unless emp'e requested. Helstrom said yes; emp'r shd not be req'd to redist. info annually.

I asked how emp'e wd know to ask if he wasn't aware of the info. Discussion.

207 Helstrom said adv in delaying bill is so At Dir Occ Safety & Health to wk. of fed'l OSHA; then state cd fill in gaps applying to AK. Disadv to this wd be priority of concerns. Thought emergency enabling regs cd fill this gap.

229 Section by section comments:

— scope is too broad; explained his pos'n. Want to be able to report, eg, Crude as Crude, not Crude oil fm Prudhoe w/ breakdown of chemical properties.

270 Gardiner asked where this was addressed in bill; Helstrom said it was unclear. Bylsma recommended submitting prop'd chngs in writing, as well as copy of his testimony.

283 Helstrom said they (Arco) determined that the bill was burdensome to emp'r; shd exclude exploration & production of oil (said this exemption was granted by feds);

- Commented on each section of bill
- 310 See .051 - want to list products generically, rather than breaking down
- .052 -
- .071 - wd require posting for each substance - wd be more reasonable to have this info at place emp's report to wk rather than at each wk entr. Agree w/ training upon empmt or when new substances introduced, thereafter at emp's report.
- .072 - overly burdensome & costly. Will result in no increase in wks safety. Request mod'n or deletion of sec.
- .105 - want change in def'n of (10) mfr (11) hazardous substances (12) toxic substance
- 413 Gardiner asked if Arco, in conferring w/ other cos, found probs in other states. H said comments applied to this bill, not legislation in other states. ~~Did not take~~ Discussion.
- 473 Byrd asked H to document objections to bill, what changes wanted, & why.
- 485 Richard Aron, Dept Labor, Occ Safety & Health - referred to press paper. Favors bill as it wd provide emp with right to know of hazardous & toxic substances they're wkg with. Best part of bill is part req'g emp of substances & giving safety training. ~~Said there was~~ ^{spots of} OSHA, ^{enabling} Reg'n. Reagan wd draw people; ~~but~~ open fm industry.

539 Ernest Muller, Comm., Env Conservation - supports concept.
From emp standpoint, wd appreciate specificity in definitions. Felt some paperwork cd be eliminated.
Suggested allowing Dept of Labor ability to establish small qty of substances which are exempt from info. clause.

618 Randolph said, re of defns, p. 5 "hazardous substances" elim (b) & elim (c) under "toxic wastes", wd not harm bill.
Muller agreed & said DOL cd add to list
Randolph Discussion.

676 Dr. Rabreau, Dept H+SS, Div- Public Health - support passage of bill. ~~Think~~ Think statutes shd be broader, regns can be more specific. Referred to pos'n paper, which lists dept. recommendations. Thinks the bill imposes reasonable guidelines; wd be easy to put specific substances in regns.

Side B

006 Randolph asked clarification regarding crude oil industry.

Byeloma asked abt refined products; Muller said this wd need to be considered more carefully. Discussion.

037 Gardiner said there is a gap of what OSHA will or won't do; said it might be possible, to avoid future implications, that someone wd have authority to provide exemption if addressed adequately by federal standards.

054 Barry explained state's role in OSHA act - if state has more stringent laws, state laws ~~are enforced over~~ ^{supersede} federal; wd not be duplication. Access of records is basis of bill. Qstn is whether or not it is in the public interest to make empes aware of risks; & what true effects are rather than conjectured effects.
Discussion.

086 Pryloma set bill aside to wait for further info.

HB 886

095 Jake Wells, legis intern, Adams ofc, said Adams cd not attend (conflict w/ another mtg), but sent ltr over

106 Barry said, as bill analysis, that bill does exactly what it says - defines reqmts.

Discussion.

141 Randolph moved to pass HB 886 fm comm. Mo passed unan.

145 Adjourned 2:08

Bristol
Bay
Native
Corporation

445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

March 10, 1982

Honorable Terry Martin
House of Representatives
Chairman - Labor and Commerce Committee
State of Alaska
Pouch V, Mail Stop 3100
Juneau, Alaska 99811

Dear Mr. Martin:

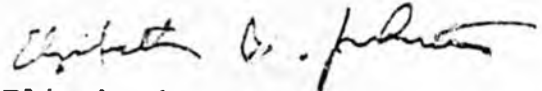
I am writing to you in support of House Bill 886. House Bill 886 amends the profit corporation statutes to specifically define the phrase "financial statements of the corporation." Why is this definition needed?

"Financial statements of the corporation" is a key phrase in determining a director's defense against personal liability for dividend payments. AS 10.05.219(1). Yet the phrase is ambiguous. This ambiguity creates unnecessary risks for directors attempting to comply with statutory requirements. Clarity would serve to protect directors from ex post facto definitions and liability.

The definition of "financial statements of the corporation" in House Bill 886 contains two basic concepts. The first is that the financial statements will be prepared according to generally accepted accounting principles then applicable. The second is that the statements will be consolidated, where appropriate. Both of these concepts are basic to the published financial statements required by the Securities Exchange Commission to be sent to all shareholders. Both concepts have also been incorporated by the Code Revision Commission, in its working draft of the corporation statutes. The American Institute of Certified Public Accountants, the SEC and the Code Revision Commission, all endorse these concepts because they produce economically meaningful data and because they protect shareholders and creditors from the manipulation of financial data.

In short, I support the definition because it will protect directors and it will protect creditors and shareholders as well.

Very truly yours,



Elizabeth B. Johnston
General Counsel

cc: Representative Al Adams

HOUSE BILL 886

Alaska corporate law makes directors of a profit corporation jointly and severally liable for excessive dividend payments. AS 10.05.216(a). However, this same law also provides a defense or a safe harbor. A director is not liable for excessive dividends if he in good faith relied on the financial statements of the corporation for his analysis of a legal dividend source. AS 10.05.219(1).

The problem is that the scope of this defense is ambiguous. The meaning of "financial statements" is unclear and therefore, creates unnecessary risks for directors as they try to comply with dividend requirements.

The solution is to define the "financial statements of the corporation." The definition proposed in House Bill 886 includes, where appropriate, consolidated balance sheets and income statements prepared according to generally accepted accounting principles. While other financial documents are useful for other corporate purposes, only the preceding are useful for an analysis of a legal source for dividends under AS 10.05.219(1).

POSITION PAPER
CS for House Bill No. 806 (L&C)

John
(Billatto)

"An Act relating to hazardous or toxic substances."

House Bill No. 806 requires the manufacturer and seller of hazardous or toxic substances to provide to the purchasers of these substances complete information as to the characteristics and precautions required when using. Any employer utilizing a substance included under this act must post a copy of the information for the employees to review plus provide training and safety gear. The employer must file with the Department of Labor annually, complete disclosures with regards to his activities and usage of the hazardous and toxic substances.

This bill imposes reasonable guidelines concerning handling of toxic and hazardous substances in manufacture and selling.

Minor recommendations include the following:

- 1) Under Section 18.60.051 consider adding "significant levels of toxic impurities if they exist in a mixture."
- 2) Under Section 18.60.071 consider change of mandatory requirements depending on size of employer e.g. less than ten.
- 3) Under Section 18.60.105 consider substances manufactured outside of the State and shipped in.
- 4) Under Section 18.60.073c the confidentiality of medical records may be breached if it is left that the Department may "require."

The Department supports the passage of this Bill.

Recommended by: *E. S. Rabeau*
E. S. Rabeau, M.D., Director
Division of Public Health

Date: *March 15, 1982*

Approved by: *Helen D. Beirne*
Helen D. Beirne, Commissioner
Department of Health and
Social Services

Date: *3-16-82*

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 806
 Title "An Act relating to hazardous or toxic substances."
 Requested by Rogers Date 2-22-82

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services
 Program Category Affected Health/Public Health
 BRU, Program, Or Subprogram(s) Affected Communicable Disease Control/Epidemiology
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		0				
200 TRAVEL		3.0	3.3	3.6	4.0	4.4
300 CONTRACTUAL		3.0	3.3	3.6	4.0	4.4
400 COMMODITIES		3.0	3.3	3.6	4.0	4.4
500 EQUIPMENT		1.0	1.2	1.3	1.5	1.6
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		10.0	11.1	12.1	13.5	14.8

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		10.0	11.1	12.1	13.5	14.8
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

All inflation at 10%

This fiscal note covers the travel costs, training seminars, commodities and testing equipment that must be utilized by our Epidemiologists in investigating the effects of exposure in humans. As the petrochemical industry develops in Alaska more and more problems will develop, very little of the acute and chronic health effects will be known and when the risks are known they tend to be understated. As problems develop it will be incumbent upon the Epidemiologist to do in depth investigations.

The fiscal impact of this bill on the Department of Health and Social Services is due to the fact that the Department of Labor uses the epidemiological section of this department as a consultant on the hazards of toxic substances.

IV. DATE 2-22-82 PREPARED BY David Bruce
 AGENCY Dept. of Health & Social Services
 Original: Legislative Finance PHONE 465-3090
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

JCC

Draft CS for HB 806 (L&C)



Sectional Analysis

HB 806 was drafted to conform with model "right-to-know" legislation from other states. The basis for the legislation is that Alaskan workers have the right to know about hazardous or toxic substances with which they work and that it is an employer's responsibility to supply that information.

18.60.051 requires an in-state manufacturer of a hazardous or toxic substance to make available certain information including the name of the substance, its hazards, proper handling procedures, and health risks.

18.60.052 requires a seller of a hazardous or toxic substance to provide the same information.

18.60.071 requires an employer to post in the workplace where a hazardous or toxic substance is present the same information, and to provide training at his own expense about the potential hazards and proper handling of the substances.

18.60.072 requires manufacturers, sellers, and employers to file annual reports with the Department of Labor. Trade secrets are protected.

18.60.073 allows past, present, and future employees access to reports filed with the department and to exposure measurements. The department may require employees to furnish health and exposure records pertinent to an investigation. Regulations shall be adopted to ensure that an employee has ready access to all relevant information about hazards and exposure.

18.60.074 allows for the department to disclose to the public information about hazardous and toxic substances and the circumstances under which the public might be affected.

Section 2 provides definitions.

MONDAY BRIEFING

National

Joint space labs possible

Cocoa, Fla. — The administrator of the American space program says the United States may join with Japan and Europe within the next five years to build an orbiting space station. James Beggs of the National Aeronautics and Space Administration told the newspaper Cocoa TODAY in an interview published Sunday that the station would use European Space Agency technology in building spacelabs and Japanese computer expertise. He said habitable modules connected by steel beams would be designed at the Johnson Space Center in Houston and launched piece-by-piece from the Kennedy Space Center in Florida.

Nuclear sub protest planned

Tacoma, Wash. — A Roman Catholic archbishop says he will take part in a blockade designed to prevent a Trident nuclear submarine, the USS Ohio, from reaching the Bangor Naval Base. Raymond Hunthausen, archbishop of Seattle, said at a rally Sunday he would participate this summer in the effort to keep the submarine out of the the Kitsap Peninsula base west of Seattle.

Boat house collapses

Gilford, N.H. — Boats drawn out of Lake Winnepesaukee to protect them from winter ice fell victim to heavy snow when a boathouse collapsed on 169 pleasure craft valued at \$3 mil-

lion. Gerald Fagan, owner of the Gilford Marina building which collapsed Friday night, said it would take up to six weeks to remove the boats that were stored five-high on racks. Damage to the 300-foot metal shed was estimated at \$700,000.

Car crashes into bus

Lo. Angeles — When a bus was struck in the rear by a car, bystanders in southwest Los Angeles jumped onto the Rapid Transit Authority vehicle and claimed to be injured, police say. The driver of the car, Shelton Eugene Knight, 32, was arrested Saturday for investigation of felony driving under the influence of drugs. Sgt Roger Lindsay said the injury count, which jumped to 26 when bystanders jumped on the bus, dropped to nine when they found out the bus driver was not at fault.

Factories emit cancerous gas

Akron, Ohio — There are no regulations to stop tire manufacturers from emitting thousands of pounds a year of a cancer-causing gas, a lobbying group says. The National Clean Air Coalition said in a report Sunday that Goodyear and B.F. Goodrich plants in Akron release more than 350,000 pounds of acrylonitrile a year. The companies acknowledged the substance is emitted from their plants, but said they were in compliance with all federal, state and local law.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 3/17

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	_____ ✓	_____	1:02	
Rep. D. Randolph	_____ ✓	_____	1:08	
Rep. B. Rogers				
Rep. T. Gardiner	_____ ✓	_____	1:08	
Rep. T. Martin, Chair	_____ ✓	_____	1:00	

Subject Matter:

House Bill No. 806 886 _____

Senate Bill No. _____

Special Orders: