

**HEB**

**300**

**HFFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)

Date Referred: March 11, 1994

FURTHER REFERRALS:

Date of Committee Action: 3/24/94 am

226-3807

The FINANCE Committee considered:

HB 300

HOUSE BILL NO. 300

LIABILITY: COMMERCIAL RECREATION ACTIVITY

"An Act relating to civil liability for commercial recreational activities; and providing for an effective date."

RECOMMENDATIONS:

be replaced with (S HB 300 (LUD)) [X] the same title [ ] a new title

[ ] have attached amendments(s)

[X] do pass

[ ] do not pass

[ ] no recommendations

[ ] individual recommendations

[ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact \_\_\_\_\_

[ ] fiscal note(s) \_\_\_\_\_

[X] zero fiscal note Admin; DCED

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Ronald L. Larson Larson	X	Mike Navarre Navarre		X	
Mark Hamley Hamley	X	Jay Brown Brown		X	
Terry Martin Martin	X	Gene Therngatt Therngatt		X	
Ben Grossendorf Grossendorf	X				
Richard [unclear] [unclear]	X				

CO-CHAIRMAN'S SIGNATURE Ronald L. Larson Larson

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. HB 300

Revision Date: \_\_\_\_\_  
Title: Civil Liability for Commercial  
Recreational Activities  
Sponsor: House Labor & Commerce Committee  
Requestor: \_\_\_\_\_

Department Affected: Commerce and Economic Development  
BRU: Insurance  
Component: Operations  
COMPONENT SERIAL NO. 354

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: Joan Brown, Administrative Officer  
Division: Insurance

Phone: 465-2597  
Date: 3/4/94

Approved by Commissioner: Paul Fuhs  
Agency: Commerce and Economic Development

Date: 3-7-94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. CSEB 300(JUD)

Revision Date: \_\_\_\_\_  
Title: 'An Act relating to civil liability for commercial recreational activities. . . .'  
Sponsor: House Labor and Commerce Committee  
Requestor: House Finance

Department Affected: Administration  
BRU: Risk Management  
Component: Risk Management  
COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ( )	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUNDING SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

Estimate of any current year (FY 94) cost: \$ 0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: J. Brad Thompson, Director  
Division: Risk Management

Phone: 465-5723  
Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usera  
Agency: Department of Administration

Date: 3/14/94

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
For further distribution information call the Governor's Legislative Office

Back-up



P.O. Box 1353  
Valdez, AK 99686  
Phone: 907-835-4300  
Fax: 907-835-5679

February 9, 1994

Honorable Bill Hudson  
Alaska State Legislature  
State Capitol (MS 3100)  
Juneau, Alaska 99801-1182

Dear Representative Hudson:

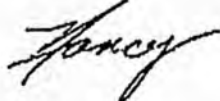
I am writing to you on behalf of the Alaska Wilderness Recreation and Tourism Association's members to request that you schedule HB 300 An Act Relating to Civil Liability for Commercial Recreation for hearings and move it out of your committee.

This bill establishes the responsibilities of tour operators and participants. It increases the safety of commercial recreational activities through better preparedness on the part of tour operators to respond to a medical situation and increased awareness by trip participants of the inherent risks. The bill reduces the likelihood of frivolous suits which are becoming a significant problem in the industry elsewhere. At AWRTA's annual meeting last year, a representative from AWRTA's group insurance company gave several examples of insurance scams that "tourists" are running in other states.

Other states, including Wisconsin and Colorado, have passed similar legislation. It has resulted in significant reductions in insurance premiums. Insurance premiums in Alaska are extremely high for small tour operators. Our own company, Alaska Wilderness Sailing Safaris, pays about \$10 a day per person in insurance costs for guests to walk in the Chugach National Forest. This is in addition to our insurance for the time they spend sailing. For Alaskan commercial recreation businesses to remain competitive price-wise with other states, we must have comparable insurance rates.

On behalf of our 230 business members, I encourage you to pass this bill out of committee as soon as possible.

Sincerely,



Nancy R. Lethcoe



## Marine Adventure Sailing Tours

---

Representative Bill Hudson  
Chair, Labor and Commerce Committee  
Alaska State Legislature  
State Capital Building  
Juneau, Alaska 99801-1182

February 16, 1994

Dear Bill:

There are, this session, a few bills floating around the legislature in which I am interested. As one of your constituents, I thought you would like to know my thoughts on them. I offer also whatever help I can give to you and your staff regarding these actions.

**HB 300** "An Act relating to civil liability for commercial recreational activities; and providing for an effective date."

This bill may be uninteresting to many in the times of such fiscal distress, but to me and many other operators of commercial outdoor businesses, this is a desirable action. I do not believe that it will reduce our insurance costs much, but it will offer more protection to us in the case of some legal action. I have been operating for 12 years and have never had an accident, but the possibility always exists.

In my business, I use an informational form which reads very much like HB 300. It simply advises my clients that Alaska can offer some difficult challenges and that if there is any doubt about anything, ask. As a concessionaire for the Glacier Bay National Park, I am advised by NPS to have clients sign a release (enclosed) which reads again like HB 300. The U.S. Forest service also requires guiding insurance and since most of Southeast is in the Tongass, HB 300 could be quite influential on the USFS regulations.

I won't go on about this, but instead urge you to hear the bill and move it out of committee before the rush of other matters befalls you. I don't see any opposition to the bill as it is currently written and I expect a zero fiscal note. This is not a tort reform bill, but rather the recognition that Alaska still has a wild and wonderful outdoors.

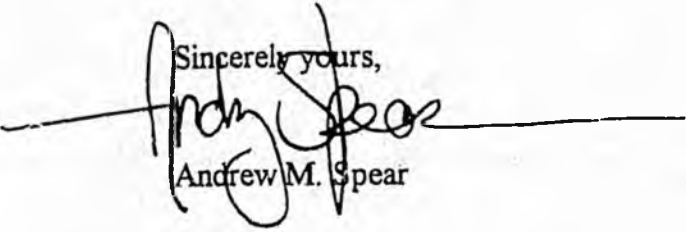
**HB 238/SB215 Funding for the Oil and Hazardous Substance Release Response Fund (470 Fund)**

I'm sure you know my sentiments on these actions, but I will ask your assistance in keeping the "470 Fund" intact. During my time as the manager of the ADEC Oil Pollution Control Program, I found that small oil spills are by far a more serious problem than is recognized by the public and their representatives. When the *Exxon Valdez* hit the skids, I was introduced to the devastation of both the natural environment, and the very fabric which holds together our local communities. Any defunding and de-emphasis on the prevention and control of oil pollution is a false economy. Take a minute and recall some of the telephone calls you got during the *Exxon Valdez* disaster. I shudder when I do.

Finally as I write this infrequent letter, I must address again a defunding issue; the ATMC. You know that I am a small operator, but that I live and participate in my local community. I spend just about everything here and believe that I help make Alaska a better place. There are many others like me, but because we are small, spending \$5,000 for an ad in a national magazine is a heavy burden. There is little out there to help us compete in a very competitive market, but one thing that does help is the ATMC. I get more business from the "Alaska Planner" than from any other source. Please do not defund us any more. At least, see if we can maintain programs that keep our businesses here rather than favor large, foreign flag operations. If the Governor wants to find some money, maybe he can sell the road to Cordova or perhaps save a little aviation gas and stop the wolf kill. I'm feeling the pinch from the wolf kill boycott so I don't need to take another blow by way of a defunded ATMC. I've said enough.

Thank you for your attention and patience. I will come in to talk to Linda about HB 300 and perhaps we can meet as well. In the mean time, my best to you and your staff. Say hello to Lucy and keep up the good work

Sincerely yours,

  
Andrew M. Spear

- NO NEED TO ANSWER, Bill.

Copy AWARTA

JUST WORKING ON  
A NEW ONE.

DRAFT

## INFORMATION, BILL OF RIGHTS and TERMS

The purpose of this document is to set out the terms and conditions of liability for persons on the sailing vessel *ADVENTURESS* and its auxiliary equipment as operated by Andrew M. Spear who is also the owner of the vessel or his staff. This document does not relieve the owner from operating the vessel in a reasonable manner and does not remove your right to protection from acts of gross negligence. However, The *ADVENTURESS* is a sailing vessel and like most sailing vessels, it has numerous lines, wires, deck fittings and other obstacles which can be dangerous. As with all boats, it rolls, pitches and yaws and while under certain points of sail, it leans considerably. In addition, the *ADVENTURESS* is equipped with a small outboard powered inflatable tender boat. Because this is a light and fast vessel, it provides even greater risks. Life jackets should be worn at ALL TIMES when using this boat. Passengers who use this boat, do so entirely at their own risk. Should you rent, request or bring your own kayaks, MAST will not be liable for

The above conditions are to be expected and by being a passenger on this vessel you are accepting these elements of risk. It is also made clear here that:

It is set out here that the owner of this vessel is not in any way liable for accidents resulting from actions of passengers either to themselves or to other passengers. By way of example such actions include:

1. Injury caused by leaving the vessel without direction from the operator; eg. jumping onto the dock, jumping into the water and jumping into another boat.
2. Burns caused by hot foods or beverages
3. Accidents caused by intoxication
4. Tripping, slipping and falling except where the operator is grossly negligent
5. Rope burns or other line handling injuries
6. Accidents caused by Alaska's different fish and wildlife or the passenger,s attempts to catch or photograph them. It is also recognized that passengers unfamiliar with the way of boats present considerable risk to the owner/operator and to the vessel and that risk is accepted, however, passengers will be expected to act in a reasonable manner and will be responsible for injuries and damages they may cause deliberately, by gross negligence or actions of malicious intent. Finally, as passengers, you should be familiar with:

1. The location and operation of all lifesaving equipment,
2. The emergency procedures, and
3. The location and operation of fire extinguishers.

**IF YOU DO NOT KNOW, ASK.**

I have read and understand this notice \_\_\_\_\_

VISITOR'S ACKNOWLEDGEMENT OF RISK  
(SAMPLE)

I recognize that there is an element of risk in any adventure, sport or activity associated with the outdoors. I am also fully cognizant of the risks and dangers inherent in (activity(s)). Knowing of the inherent risks, (may include specific risks) dangers and rigors required of said activity(s), I certify that I am and my family, including minor children are fully capable of participating in the said activity(s). Therefore, I assume full responsibility for myself, my family, including minor children for bodily injury, death and loss of personal property and expenses thereof as a result of my negligence or the negligence of my family participating in said activity(s) except to the extent such damage or injury may be due to the negligence of (concessioner). I further understand that (concessioner) reserves the right to refuse any person it judges to be incapable of meeting the rigors and requirements of participating in (activity(s)).

Name of Participants:

Self \_\_\_\_\_

Spouse \_\_\_\_\_

Minor Children \_\_\_\_\_  
\_\_\_\_\_

I have read, understand and accept the terms and conditions stated herein and acknowledge that this agreement shall be effective and binding upon the parties during the entire period of participation in the said activity(s).

Parent/Guardian \_\_\_\_\_

Customer Signature \_\_\_\_\_

Date \_\_\_\_\_

It is also understood that due to the unavailability of liability insurance that (concessioner) does not have such coverage and in the event of an accident resulting in bodily injury, death or loss of personal property (concessioner) ability to compensate me or members of my family may be limited.

NOTE: Form may be modified to provide for the signature of each individual member of a group.

## INSURANCE AND INDEMNITY

1. GENERAL

The Concessioner shall save, hold harmless, defend and indemnify the United States of America, its agents and employees for losses, damages or judgments and expenses on account of fire or other peril, bodily injury, death or property damage or claims for bodily injury, death or property damage of any nature whatsoever, and by whomsoever made, arising out of the activities of the Concessioner, his employees, subcontractors, or agents under the contract. The types and amounts of insurance coverage purchased by the Concessioner shall be approved by the Secretary.

At the request of the Secretary the Concessioner shall annually, or at the time insurance is purchased, provide the Secretary with a Statement of Concessioner Insurance and Certificate of Insurance as evidence of compliance with this section and shall provide the Secretary thirty (30) days advance written notice of any material change in the Concessioner's insurance program hereunder.

The Secretary will not be responsible for any omissions or inadequacies of insurance coverages and amounts in the event the insurance purchased by the Concessioner proves to be inadequate or otherwise insufficient for any reason whatsoever.

2. PUBLIC LIABILITY

The Concessioner shall provide comprehensive general liability, or protection and indemnity, insurance against claims occasioned by actions or omissions of the Concessioner in carrying out the activities and operations authorized hereunder. Such insurance shall be in an amount commensurate with the degree of risk and the scope and size of such activities authorized herein, but in any event, the limits of liability shall not be less than the following amounts per occurrence covering both bodily injury and property damage:

<u># of passengers</u>	<u>Minimum Amount</u>
Up to 6	\$ 300,000 per occurrence
7 - 12	500,000 " "
13 - 20	1,000,000 " "
21 - 50	1,500,000 " "

If claims reduce available insurance below the required per occurrence limits, the Concessioner shall obtain additional insurance to restore the required limits. An umbrella or excess liability policy, in addition to a Comprehensive General Liability Policy, may be used to achieve the required limits.

From time to time, as conditions in the insurance industry warrant, the Secretary reserves the right to revise the minimum required limits.

All liability policies shall specify that the insurance company shall have no right of subrogation against the United States of America or shall provide that the United States of America is named an additional insured.

The Concessioner shall also obtain the following additional coverages at the same limits as required for Comprehensive General Liability insurance unless other limits are specified below:

- (1) Outfitters and Guides (if shore excursions are planned)
- (2) Liquor Liability (if liquor is served)
- (3) Product Liability (including food)
- (4) Alaska Statutory Workers' Compensation
- (5) Auto Liability (if autos are used in the park)

sugar-free baking  
3 temporary line  
P.O. Box 10  
Healy, AK 99743-0010  
907-683-2402

Rep Bill Hudson  
Alaska State Legislature  
Rm 5 31100  
Juneau, AK 99801-1182

Rep. Bill Hudson

We implore you for your help  
in getting AB 300 Civil Liabilities for  
Commercial Recreation Activities before the  
House Judiciary and passed.

We give horseback tours north  
side of Denali Park milepost 245 at  
Healy, AK. This past '93 season some  
2600 tourists rode with us for one  
to two hrs. This insurance  
coverage cost \$8700<sup>00</sup>. This year '94  
season coverage will be for approx-  
imately \$12,000<sup>00</sup> for about 5200 clients  
we have been doubling for 5 yrs.  
don't afraid to be sued for "frivolous  
actions" on the part of Client riders.  
Last year was our first year of profit  
\$406<sup>00</sup>. We employ 8 to 10 people  
for May to September. We pay \$23,000<sup>00</sup>  
in wages this past season.

We pay \$1141 - Comp insurance,  
\$1500<sup>00</sup> in vehicle client liability, and  
\$15,000 - horse feed, \$22,500 for 15 head of  
horses, \$1360<sup>00</sup> land use + CD, \$500<sup>00</sup> in  
transporter, land use fee, Business license.

This is not the expenses of the  
business. This is paid out before the  
doors open.

(2)

The first ride could be the last  
in the client decides to sue

She's past season a train car  
manager rode a "camp ride" (free)  
She horse bailed from Bear Steer,  
she fell, broke 3 fingers, sent  
in her bills, became well, crush  
the same fingers, billed but insurance  
some \$4800 - This included, cat sc.  
FXC, urine tests & Rays, therapy and  
pap smear, office calls. The insurance is  
still pending. No Safety or negligence cited

Another client boarded her horse  
while waiting to leave, her horse took a step  
forward, she panicked, pulled hard, bac  
backing the horse till finally he tripped  
over a small bush, dropped his hip,  
she slipped off, after losing her balance.

"No harm done," she said, "asked for a  
different horse, made the ride (No  
Signed guest book" This is the only way  
to see Alaska close up and left.

She rode the train to the Cruise She  
took a plane home to Iowa. From  
the moment she boarded the train  
She deteriorated badly becoming restricted  
to a walker only. She sued for mede  
bills, therapy, Gardner, housekeeper,  
and pain, Loss of income. She is  
a professional writer & gave  
gardening seminars.

Lucky for us, we had a vet check  
the horses. All received shots and

were in good shape as well as well-  
mannered manners ~~the~~ said they  
were well post conditioned, post  
trained. By this time she also  
said she was bucked off. Our  
help had been non-existent and  
that Princess Tour hadn't paid  
attention to her complaints.

We've had 5 yrs of quality, professional  
service for Princess Tour clients.  
We strive for safety first, we  
give a safety talk, horsemanship talk  
and information regarding possibilities  
for an accident if you ride. We pull  
no punches in case some one is  
afraid or wants to change their  
mind we encourage them  
not to go for the ride.

We generally have been treated  
fairly but every bushel has a  
"bad apple". We love showing off  
Alaska by horseback. But still  
we feel "threatened" by the frivolous  
lawsuit. We need this bill-passe  
for our protection so we don't  
have to give up the idea of  
giving rides, over nite trips,  
3 day + 5 day trips. Please protect us.

If you have any questions  
Please call - - 907 683-2402  
anytime

Phyllis O'Strickle

Sugar Leaf Packing, Transport.  
2-13-94

P.O. Box 10

Healy, AK 99743-00

Jeanette James  
Alaska State Legislature  
MS 31100  
Juneau, AK 99801-1182

Ms. James,

I implore you to please help get Bill:  
HB 300 Civil Liabilities for Commercial  
Recreational Activities before the House  
Judiciary and passed.

We give horseback tours beside  
Denali Park line on the Healy side,  
milepost 245. We gave over 2600 rides  
last summer for one and two hours.  
We paid \$8700.00 for liability coverage  
from Cathcart insurance.

Still we are "always on guard"  
for that one frivolous lawsuit that  
could ultimately wipe us out of  
business.

We have a very good safety record  
still one person has sent all their  
medical bills, for 6 months, to be  
paid by our insurance. She fell  
off a horse that bolted from the scent of  
a bear. She was riding camp (free)  
from Greysine to learn about the trail  
ride. She was a rail car manager.  
She broke 2 fingers in the fall. They  
healed & she crushed them later  
doing something else. The matter  
is pending at this time. She  
was 38 yrs old.

another lady client mounted a horse and was waiting for her guide to mount along with 3 other members of her family. She was 25 yrs. She was going to ride because the other members wanted to ride. Her horse moved a step, she panicked, in spite of being asked to let up on the reins, she pulled back hard, continuing to pull. She caused the horse to back up until he tripped one foot on a bush. This caused that hip to drop on the horse unbalancing the lady, she slipped off & onto the ground upon her hip.

She was helped up and asked for a different horse. We obliged. She made the one hour ride. Statistically per "this was the only way to see Alaska" up close. By the time she had returned home by rail, cruise ship & plane to Iowa. She was unable to walk without a walker & was suing us for a gardener housekeeper, pain medication all due to the one hour ride, falling off the horse. She was a gardener, writer & seminar gardener. She had a condition that had deteriorated. Our insurance is handling the matter.

She had become unable to do seminars. She said the horses were in poor condition, poor mannered, and she had been poorly treated by Sugar Loaf employees and Princess Tour. We are lucky we had gotten the horses vet checked, and their condition was very good. The amount of riders testified to the quality of rides and guest treatment. Safety is number one in our company. We have been in business 5 yrs with Princess. And in horse business for 9 yrs. We are a reputable business.

We give safety and information talks prior to each ride for information, horsemanship and to give each guest a chance to "back" out gracefully should they choose to do so.

Generally, we are treated fairly by most customers. We like "showing off" Alaska by horseback but still we feel threatened by "frivolous" suits by a few "bad Apples".

We feel we have to watch our backs all the time.

We employ 8 to 12 employees every summer May to September approximately \$23,000<sup>00</sup> payroll.

at costs \$1,141<sup>00</sup> for workmens  
comp, \$1261<sup>00</sup> for liability for  
Clients in our vehicles and  
this summer our liability for  
Client riders will be about  
\$12,000<sup>00</sup> or more for coverage.

Horse feed \$15,000<sup>00</sup>

Horses - 15 22,000<sup>00</sup>

land use + CD 1360<sup>00</sup>

licenses 500<sup>00</sup> (transporters  
business, land use  
fee)

all of this before we open  
the door for business... a business  
that could be closed instantly  
by one large suit

we work 16 hrs a day  
every day and have yet to  
profit but this could be the year  
we do. We've incorporated  
the business.

We would greatly appreciate  
your help with \$300... at  
least there would be a lite  
at the end of the tunnel.

This has been like Russian  
Roulette still now.

Sincerely

Thylls A. Strick  
office manager  
Rick Strick, Jr.  
Owner

Any Questions? - 907-683-2402

Fax - 465-6790

Dear Representative Hudson -

We urge you to schedule HB300 regarding civil liability for commercial recreation.

The bill would serve to reduce insurance costs for operators, a very high cost for us all. Other states have passed similar legislation with good results.

Moving the bill out of committee would do great service to small tourism companies in Alaska.

Thanks for listening,  
LAW HOENE, President

Printed On Recycled Paper



P.O. Box 389 • CROWWOOD, AK 99587

DIRECT: 907-783-2928 • OUTSIDE ALASKA: 800-334-8750 • WITHIN ALASKA: 800-478-4100

FAX: 907-783-2150

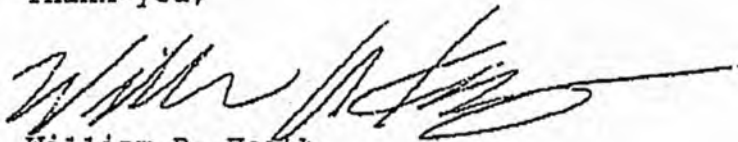
Kenai Peninsula Hike'n'Lunch Tours  
203 Pamela Ct.  
Kenai, AK 99611  
(907) 283-8010

February 21, 1994

Dear Representative Bill Hudson, Chairman House Labor and  
Commerce Committee:

It has recently been brought to my attention HB 300 Civil  
Liability for Commercial Recreation Activities is in the  
committee you chair and furthermore I learn it will be going  
up for a hearing on February 24th. I wish to say I strongly  
support this bill because it clarifies my obligations to my  
clients and will probably reduce my liability insurance  
cost. Please help the Tourism Industry's small businesses  
by moving this bill through your committee.

Thank-you,



William D. Heath  
owner, Hike'n'Lunch Tours

Post-It™ brand fax transmittal memo 7871		# of pages 1
To: <i>HL</i>	From: <i>Joh LIO</i>	
Subject: <i>Written testimony</i>	Co: <i>for HR 300</i>	
Dept. <input checked="" type="checkbox"/>	Phone #	
Fax #	Fax #	



GLACIER BAY SEA KAYAKS

P.O. BOX 26  
GUSTAVUS, ALASKA 99826  
(907) 697-2257

15 February 1994

Representative Bill Hudson  
Alaska State Legislature  
State Capitol  
MS 3100  
Juneau, AK 99801-1182

Dear Representative Hudson:

I am writing on behalf of HB 300 Civil Liability for Commercial Recreation Activities, and to let you know that our company supports this bill.

It's my understanding that this bill will help establish the responsibilities of both the people who operate the commercial activity and those that participate in it. In so doing, it's the intent of this bill to reduce uncertainty regarding the legal responsibility for injuries that may result from participation in such activities.

The passage of this bill could dramatically reduce insurance premiums for recreation businesses in Alaska, where profit margins are often borderline anyway due to the seasonal nature of the recreation industry in this state. Further, this bill would help to mitigate the effects that out-of-state accidents have on our insurance premiums. It would clearly reduce the number and amounts of out-of-court settlements.

I urge you give this bill high priority and to schedule a hearing to move this bill out of committee and on to the House Judiciary.

Thank you for your swift attention on this matter.

Sincerely,

A handwritten signature in black ink that reads "Kara Berg". The signature is written in a cursive, flowing style.

Kara Berg  
Glacier Bay Sea Kayaks, Inc.



GLACIER BAY SEA KAYAKS

P. O. Box 26  
GUSTAVUS, ALASKA 99826  
907 697-2257

15 February 1994

Representative Jerry Mackie  
Alaska State Legislature  
State Capitol  
MS 3100  
Juneau, AK 99801-1182

Dear Representative Mackie:

I am writing on behalf of HB 300 Civil Liability for Commercial Recreation Activities, and to let you know that our company supports this bill.

It's my understanding that this bill will help establish the responsibilities of both the people who operate the commercial activity and those that participate in it. In so doing, it's the intent of this bill to reduce uncertainty regarding the legal responsibility for injuries that may result from participation in such activities.

The passage of this bill could dramatically reduce insurance premiums for recreation businesses in Alaska, where profit margins are often borderline anyway due to the seasonal nature of the recreation industry in this state. Further, this bill would help to mitigate the effects that out-of-state accidents have on our insurance premiums. It would clearly reduce the number and amounts of out-of-court settlements.

I urge you give this bill high priority and to schedule a hearing to move this bill out of committee and on to the House Judiciary.

Thank you for your swift attention on this matter.

Sincerely,

Kara Berg  
Glacier Bay Sea Kayaks, Inc.

# *Afognak Wilderness Lodge*

SEAL BAY, ALASKA 99697

CATERING TO ADVENTUROUS VACATIONERS • PHOTOGRAPHERS • FISHERMEN • HUNTERS

Radio Phone Contact: (907) 486-6442  
FAX: (907) 486-2217

ROY & SHANNON RANDALL  
Owners & Operators

FAX: 465-6790

*February 21st, 1994.*

*Honorable Bill Hudson,  
Alaska State Legislature,  
State Capitol [MS 3100]  
Juneau, AK 99801-1182*

*Dear Representative Hudson,*

*We request that you schedule HB 300 for hearings and move it out of your committee. Alaska's multitude of small "Mom & Pop" businesses are already under tremendous financial burdens to maintain both quality and all legal permits, insurances, etc. and we would like our Alaskan legislators to be more on our side as Wisconsin & Colorado legislators have helped their constituents.*

*Many thanks, in advance, for your consideration.*

*Cordially,*



*Roy & Shannon Randall,  
Afognak Wilderness Lodge.*



## Clearwater Outdoor Services

Peter R. Buist - Registered Guide/Outfitter

P.O. Box 71561 - Fairbanks, Alaska 99707

(907) 457-7189

February 14, 1994

Representative Bill Hudson  
State Capitol  
Juneau, AK 99801-1182

RE: HB 300 - Civil Liability for Commercial Recreation  
Activities

Dear Representative Hudson:

It is my understanding that this bill is currently in your Labor and Commerce Committee. I would appreciate your consideration for an amendment to this bill to include the more traditional Alaskan "supervised commercial outdoor recreation activities," namely hunting, fishing and dogsledding.

I support the concept of the bill, but wish the eco-tourism folks would be a little more fair in their scope. Hunting guides have far more problems with insurance requirements, even though they seem to be killing fewer tourists than the rafters and kyakers!

Thank you.

Sincerely,

Pete Buist  
Registered Guide-Outfitter #477



February 15, 1994

Linda Giguere  
Legislative Aide

Dear Linda,

Per our phone conversation yesterday, I want to put a few thoughts in writing regarding HB 300.

This bill is important to me because I know that many people living in the villages want to start small-scale tourism businesses but are stopped, in part, by the high cost of insurance. Anything the legislature can do to relieve or remove this obstacle to rural tourism development would be greatly appreciated by many people.

I am currently working for the City Council of a small Interior Athabaskan village to develop their village as a tourism destination. Several residents there want to start small tourism operations. Insurance costs are inhibiting some of these potential businesspeople. They know the dangers of bush excursions and the terms of HB 300 would suit the kind of clients and activities they want to have.

I hope that you can hold a hearing on HB 300 during this session and move out of committee to a successful vote on the floor. Thank you for your time, attention, and energy on this crucial piece of legislation.

Sincerely,

David Cornberg, Ph.D.  
General Manager  
LOCAL WORKS, Inc.  
P.O. Box 82631  
Fairbanks, AK 99708

488-7328

February 15, 1994

Honorable Bill Hudson  
Chairman, Labor & Commerce Committee  
ALASKA STATE LEGISLATURE  
State Capitol  
Juneau, Alaska 99801-1182

Dear Bill:

We are pleased that your committee is taking comment on HB 300 and that this legislation may move forward.

The legislation would create a fair playing ground for both operators and clients. If adopted as law, HB 300 would alleviate the vast majority of nuisance suits while still allowing parties, injured due to an operators negligence, to recover damages. Attached is a form signed by our Mendenhall River Float clients. Although it states "All personal articles are taken at the participants own risk", we pay for thousands of dollars in cameras and camcorders dropped in the river each year. HB 300 would reduce the likelihood of our having to defend against such claims.

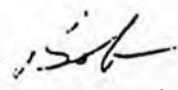
In 1982 a tree fell on one of our clients while on the Whiting River, south of Juneau. It took eight years and tens of thousands of dollars to defend against the subsequent claim for what is certainly an inherent risk of being in the Tongass National Forest. After passage of HB 300 such a claim would likely be dismissed, reducing a substantial burden on the court system and saving Alaska operators and their investors significant resources.

We recommend one change to HB 300. That the word "basic" be replaced by the word "reasonable" or "appropriate". There is a first aid certification of "Basic First Aid". In some cases (real back country trips) Basic First Aid would be insufficient, while in other circumstances (road side, i.e. sightseeing), it would be a burdensome requirement. CPR is the current industry standard for most pedestrian experiences.

We encourage the passage of this legislation and if you feel it appropriate, would be pleased to testify before your committee or later in Judiciary or Finance.

Thank you for your support Bill. It is much appreciated.

Sincerely,

  
Robert M. Dindinger  
President



## Reducing Risks

The safety and enjoyment of Alaska's outdoor activities depends on how risk management techniques are used to identify and reduce hazards. Both trip leaders and participants need to become "risk managers." Risk management starts with awareness of hazards and development of an operating method that incorporates safe personal and business practices.

Three primary causes of accidents are: 1) failure to provide or obtain adequate information and/or warning about the inherent hazards involved in the activity; 2) failure to provide or obtain proper or advance instructions about how to prevent or respond to hazards; and 3) failure to make the injured party and other participants feel truly "cared about."

Safety should be an integral part of planning for a trip. Prior to a trip discuss possible health and safety problems such as water, weather, insects, health problems, injury, and one's physical condition. Both back-country operators and clients should have current first aid and CPR skills, recent medical checkups, and carry their own first-aid/medicine kit.

Most operators expect guests to sign a Release of Liability form. Release forms do not take away the rights of guests to sue. They help clients to stop and think about the risks and their obligations to be careful and responsible participants.

Prior to departure, wilderness operators generally check participant's gear to make sure it will meet anticipated trip demands. They also provide a pre-trip orientation and safety briefing. Basic points covered include: 1) introduction of the staff; 2) introduction to the activity and any inherent dangers, 3) demonstration of equipment and check-out on ability to use it, 4) review of the medical situation, and 5) question and answer session.

By working together, operators and clients can assure a safe and outstanding Alaskan wilderness experience.

## Group Liability Insurance Available

The high cost and limited availability of insurance for back-country tour operators, hunters and lodges remains a major concern and limiting condition on the development of new businesses. AWRTA membership enables business members to obtain group outfitter & guides insurance through Cathcart, Ltd. For additional information on insurance, contact Julie at Cathcart Ltd. 907-258-6240.

### Liability Insurance Legislation

AWRTA requested Rep. Fran Ulmer to submit to the Legislative Drafting Committee a copy of Wisconsin's 1992 Liability Limits legislation. While not depriving client's of their right to sue, the legislation provides some relief to land owners and tour operators by establishing that participants must assume responsibility for their own actions. Current Alaskan rates are very high. AWSS, for example, expects to pay \$7.90/client hour in insurance premiums for guests to walk in the National Forest. Passage of the Wisconsin Bill resulted in a 20% decline in insurance rates.

As part of its campaign to push for passage of a similar bill, AWRTA is seeking funding for a lobbyist.

## Announcing the PAW Fund

The "Protect Alaska's Wildlife Fund" has been established for the Alaskan recreation and tourism industry to support wise management of Alaska's wildlife. The fund is managed by the Alaska Conservation Foundation, an Alaskan based organization, with tourism and wildlife professionals on the Board. No funds will be used to support tourism boycotts. Alaska Discovery has announced that it will contribute \$3 to the fund for each of its clients booked on their multi-day trips. AWRTA members to make contributions. For information or to make donations contact: Alaska Conservation Foundation, 430 W. 7th Ave. Suite 215, Anchorage, AK 99501. 907-276-1917.

## Consumer Evaluation of Ecotourism

At the 3rd World Congress on Adventure Travel and Ecotourism (Whistler, B.C.), The Ecotourism Society presented preliminary information on its green evaluation program for nature tourism services. Their survey of tour operators indicated a high level of agreement on how an ecotourism program should be defined and evaluated. Six points emerged: 1) operators should contribute directly to local environmental and social causes and offer their visitors an opportunity to contribute; 2) operators should provide clients with information on local environmental issues; 3) local accommodations (lodges, hotels, campsites, fixed campsites) should have a low impact on the local environment; 4) local residents should be employed as staff in the field and office; 5) training should be provided to the local people; and 6) group size should be limited.

Only 60% of the tour operators surveyed currently provided information on local environmental issues. The recommendation was that balanced presentations by local citizens with diverse viewpoints should be encouraged.

On local hiring of guides, it was felt that although visitors want tour guides indigenous to an area, often "local" guides are not local to the area visited. In addition, tour operators must balance their obligations to provide a safe, educational trip against hiring untrained local people.

Finally, there is a divergence of opinion on whether groups should be limited in size arbitrarily or whether group size should be based on the number of participants to leaders, the sense of crowding, and the effects on the environment, such as trail erosion, level of noise, disturbance of wildlife.

The Ecotourism Society expects to have its consumer evaluation forms ready for trial use in the spring of 1993. If you would like to comment on their program or participate, you can write: Megan Epler Wood, The Ecotourism Society, P.O. Box 755, N. Bennington, VT 05257.

RE: HB 300

2-14-94

Please help small, local recreational businesses by supporting this bill.

Two huge worries we have are:

- 1) The tremendous cost of commercial liability insurance
- 2) The constant worry about being sued

We are not organized in a high profile way because our energies are focused on operating our businesses. So please consider our needs.

Melinda J. Osgood