

S B

9 8

SB No. 98

Problem-

Section (b)(1)(B) of proposed AS 09.65.112 states:

"(b) This section does not apply to a civil action
(1) for damages resulting from
(B) an act or omission of an owner or operator of an aircraft or
watercraft who is a common carrier."

This language is ambiguous when applied to a common carrier that engages in the operation of a watercraft or aircraft in common carriage as its business, but on the side, also operates an aircraft or boat not as a common carrier but rather for its business entertainment or own internal use.

Solution-

This ambiguity could be fixed by amending the wording of (b)(1)(B) to read:

"(b) This section does not apply to a civil action
(1) ~~(1)~~ for damages resulting from
(B) an act or omission of an owner or operator during the operation
[of] an aircraft or watercraft in common carriage. [who is a common
carrier.]

The above modification would clear up the confusion about what happens when a common carrier in one area (air or water) has a boat or plane which is used recreationally and not for common carriage.

Alaska State Legislature

DURING SESSION
STATE CAPITOL
JUNEAU, AK 99801-1162
(907) 465-4843 (toll) 892-4843
FAX: (907) 465-3871

WEB SITE
www.akrepublicans.org/Bunde

DURING INTERIM
716 W. FOURTH AVE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

E-MAIL
Senator.Con.Bunde@legis.state.ak.us

SENATOR CON BUNDE

District P

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

SPONSOR STATEMENT

SB 98

“An Act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date.”

Thousands of Alaskans own private aircraft and/or watercraft and routinely share the enjoyment of these activities with friends, relatives, and neighbors. In doing so, those owners expose themselves to being sued if an accident occurs. SB 98 is the “Good Neighbor Bill.” It will clarify the responsibilities of airplane and boat owners and their guests when injuries are caused by the inherent risk of the activity, not by owner negligence.

Common law recognizes that certain activities carry inherent risks, and that participants take some responsibility for injuries they may sustain while participating in those activities. However, America is a litigious society, and people will sue -- often without consideration for the guest's responsibility for his or her own injury. SB 98 seeks to clarify in statute that people who accept an invitation to participate in a non-commercial recreational activity in a watercraft or aircraft also accept the inherent risks of such activity.

SB 98 does not absolve the owners of the aircraft or watercraft from maintaining and operating their equipment in a safe and prudent manner.

By discouraging frivolous lawsuits, SB 98 will also help keep a lid on the rising costs of insurance for airplane and boat owners. Due to inherent risks associated with these activities, rising insurance rates have forced many owners to forgo insurance on their expensive equipment.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 18, 2003

SUBJECT: Civil liability for plane/boat passengers (SB 98)

TO: Senator Con Bunde
Attn: Karen

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Creates immunity from civil liability for negligence when an owner or operator of an aircraft or watercraft transports a passenger and does not receive compensation for the transportation. Provides that accidents resulting from gross negligence or reckless or intentional misconduct, involving a common carrier, or occurring during a sales demonstration are not immune. Also when the owner or operator has certain insurance coverage or fails to tell passengers that no insurance exists, immunity does not apply.

Section 2. Provides that the Act applies to accidents that occur after the effective date of the Act.

Section 3. Effective date.

MFF:lmb
03-089.lmb

ALASKA BOATING ASSOCIATION



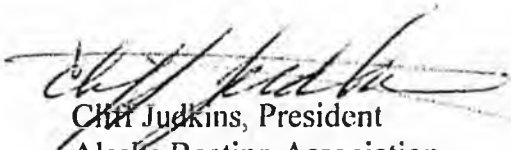
Senator Con Bunde
State Capital
Juneau Alaska 99801-1182

March 26, 2003

Re: Senate Bill 98

Dear Senator Bunde,

The Alaska Boating Association supports the passage of SB 98, "An act relating to civil liability for guest passengers on an aircraft or watercraft." The Alaska Boating Association is a statewide organization with a membership of more than 1200. The association is an organization dedicated to the enhancement and preservation of the boating experience in Alaskan waters. Our organization represents the boating public on all issues concerning boating activities. As a past member of the Governors Boating Safety Advisory Council I personally reviewed statistics depicting boating accidents and related personal injury. Alaskans are involved in a high rate of boating accidents with personal injury and death to both operators and passengers- one of the results is high insurance rates. Insurance rates for the group of boaters that I fall into has more than doubled in the past three years. My insurance has gone from \$825.00 three years ago to over \$1,600.00 for the coming season. Other boaters have experienced similar rate increases. Some folks have actually made the decision not to purchase a boat, or to sell the one they have due to high insurance rates. Passage of SB98 would surely help to buffer future rate increases. Again the Alaska Boating Association is a strong supporter of SB98 and we commend you for the time that you have spent drafting and introducing this legislation.


Cliff Judkins, President
Alaska Boating Association

Cliff Judkins - President • P.O. Box 874124 • Wasilla, Alaska 99687
(907) 373-3591 • Fax 373-3592 • E-Mail: cjudkins@customcpu.com

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March 24, 2003

Senator Con Bunde
State Capitol
Juneau, AK 99801-1182

Re: SB 98, "An Act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date."

Dear Senator Bunde,

On behalf of the Personal Watercraft Club of Alaska (PWCA), I would like to express our support for SB 98.

This legislation provides a much needed limit of civil liability for boaters. Currently, Alaskan boat owners have two jobs when they take the helm, not only to navigate safely through waters, but also to avoid the treacherous crags of a litigious society.

The cost of not passing SB 98 can be measured in terms of lost opportunities for recreation and enjoyment. Key to this is a boat owner's legitimate fear of potentially losing one's life savings in a world rife with frivolous lawsuits and unspecified civil damages. This legislation will relieve an unnecessary and unfair burden on recreational boaters while protecting passengers from negligent acts.

It seems obvious that boat owners should be able to take their friends fishing or sightseeing without the fear of an expensive lawsuit should their trip end in misfortune. Similarly, non-commercial passengers should not have their choice to ride in a boat made by a legal system more concerned with contingency awards than with personal freedoms.

Our club promotes the sport of watercraft riding, education, and boating safety. Several of our members belong to the Coast Guard Auxiliary. Annually, we contribute our time and equipment to help Alaskans with disabilities at the Challenge Alaska Summer Splash. We are staunch supporters of boating rights and are a member club of the Alaska Outdoor Council, the Alaska State Boaters Association, and ABATE. Because of our interest in recreational boating, the PWCA is particularly interested in the success of your legislation.

Almost all of our club members ride 2-4 seat watercraft and take passengers. We have traveled from Whittier to Valdez and from Anchorage to Kenai on PWC. Modern PWC are quiet transportation, leave little wake, and burn a fraction of the fuel of many boats. These clean burning machines meet the rigid 2006 EPA standards. Light, durable, and stable, they very well may prove to be the snow


PWCA

SENATOR CON BUNDE
SENATE BILL 98

machine of the water for many communities. They are a fun and exciting way to experience the Alaskan outdoors.

I am available to discuss this legislation with you or your staff and may be reached directly at 258-2420 (wk) or at davealaska@aol.com. Please let me know how we can assist you in reaching your vision for Alaska.

Sincerely,



David Ausman
PWCA President

Personal Watercraft Club of Alaska (PWCA)
P.O. Box 112984
Anchorage, AK 99511-2984
website: www.pwcalaska.org
email: akpwrdr@aol.com
phn: 907-345-6723

cc:

Cliff Judkins, Alaska State Boater Association



Ed & Inge Crane

*5260 Lupin Place
Anchorage, AK 99507*

Senator Con Bunde
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

March 18, 2003

Dear Senator Bunde,

Thank you for introducing SB 98. While I am not sufficiently knowledgeable to address the commercial aspects of the legislation, I would like to express wholehearted support for the potential effects on private aircraft owners and operators.

I am an instrument-rated private (i.e., non-commercial) pilot who owns a modest small airplane. I fly that airplane strictly for pleasure, under favorable conditions only, and I operate only from improved airports. I have some 1,400+ hours of flying experience, with no record of accidents, incidents, emergencies, regulatory violations, or insurance claims.

Despite the foregoing, it has for several years been increasingly difficult (as I believe it has been for most Alaska pilots) to obtain and/or afford adequate liability insurance. Because of my history, my carrier has "grandfathered" my personal injury liability coverage at a level which it no longer makes available in Alaska generally. Nevertheless, I no longer carry passengers other than my spouse. Within the context of today's society and the influence of personal injury lawyers, the risks of exposure for myself, my family, and my estate are more than I can rationally tolerate. On the other hand, I would have no problem assuming the totally controllable risks of "gross negligence or reckless or intentional misconduct" which would result in liability under SB 98.

So no longer can I share with friends, neighbors, or visitors the awesomeness and beauty of SouthCentral Alaska which can be reasonably and safely accessed by a simple and inexpensive flight. No longer can I experience the pleasure of implementing a youngster's "first flight", or of using my aircraft to pique a teenager's interest in an aviation career. If passed, SB 98 would make these things once again possible - not only for me, but for countless thousands of Alaskans and visitors!

Very truly yours,



From: Dr. Frost
To: senator.con.bunde.@legis.state.ak.us
Cc: (left blank for privacy purposes)
Sent: Monday, March 17, 2003 6:19 PM
Subject: Senate Bill 98

Dear Senator Bunde,

I have reviewed Senate Bill 98 and would like to express my strong support for it. As you know I own and fly my own piper cub here in Alaska. I have never flown commercially. I have always been concerned with my family's potential liability if I were to be involved in a serious aircraft accident and to have any passengers injured.

Clearly since I do all of my own flying I never place a passenger in a situation which I am personally not comfortable for myself. However as you know there are times when weather changes unexpectedly or other circumstances may create a hazardous situation. Since the passengers are enjoying the benefits of the flight for no cost they should be expected to shoulder some of the responsibility as well.

I will be out of town for the next week. I can not personally speak for the Alaska Bowhunters Association and Alaska Chapter of SCI but I would suspect that they would support the bill as well. By sending them a copy of this I will solicit their opinions.

Sincerely,
John D. Frost MD

Subject: Re: SB 98, Recreational Liability Bill
Date: Mon, 03 Feb 2003 18:45:10 -0900
From: "William G. Nelson"
To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

I strongly support SB 98. As an owner of a small private aircraft, I do on occasion take visitors to our state for a "flight seeing" ride. They always indicate that it was the highlight of their trip. I would do so more often, but do not feel the need to shoulder the liability.

Certainly, visitors that see the real Alaska are less likely to be swayed by special interest groups supporting causes detrimental to the development of Alaska.

Thank you for your sponsorship of this bill.

William G. Nelson

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March 26, 2003

Senator Con Bunde
State Capitol
Juneau, AK 99801-1182

Dear Senator Bunde,

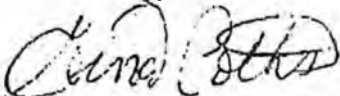
I am writing in support of Senate Bill 98, "an act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date".

As a responsible watercraft and boat owner I feel this is important legislation to provide a limit on civil liability for boaters (and aircraft owners). We live in a litigious society and it seems everyone wants to lay fault or blame on the other person and make them pay. This legislation will allow boat owners and aircraft owners a little more peace of mind when taking passengers on board for pleasure rides.

Thank you for writing a bill that promotes safety in recreational activities. I am a member of the Personal Watercraft Club of Alaska (PWCA) as well as Alaska Boating Association. I know the PWCA has given their support to this bill and I'm sure they have contacted the Boating Association and asked them to contact you with their support as well.

If there is anything else I can do to help promote and support this bill please do not hesitate to contact me. I can be reached at 345-6723 or email at akpwcrdr@acsalaska.net.

Sincerely,



Gina Poths
11600 Trails End Rd.
Anchorage, AK 99507

March 26, 2003

Senator Bunde

REF: SB98 Recreational Liability

Senator Bunde, although I am writing this letter on my behalf to express support for SB 98 "Good Neighbor Bill" I am also President of the Alaskan Bowhunters Association one of the largest outdoor organizations in the state and I have asked that the entire executive board and general membership across the state show their support.

I moved to Alaska 29 years ago so that I may be involved in the out of doors in the most beautiful state in the union. I have always owned boats for recreation since moving to Alaska and have been fortunate to travel around the state with friends of mine that own small fixed wing planes.

I have discovered as has many of my friends that one of the greatest joys of living in Alaska is the ability to share the experience of the outdoors with friends in Alaska that may not have the ability or friends and business acquaintances from lower forty-eight. A concern that I have always had is the possibility of leaving my family liable for something that may have not been in my control to prevent. There is always a risk of potential life threatening accidents with any journey in to the outdoors in Alaska that is part of the mystique of Alaska. If I am operating my boat or plane in a safe manor and an accident does occur I do not believe that my family should be liable for something that they had no part in.

This bill is long over due and I encourage the Senate to fully support this bill. There is no disadvantage to this bill other than leaving the door open for frivolous lawsuits. Thank you for your time and consideration into this matter.

Sincerely
Phil Pringle
10086 Explorer Cr.
Anchorage AK. 99515
907-344-8812

Phillip H. Mabry, D.D.S.

2601 BONIFACE PARKWAY ANCHORAGE, ALASKA 99504

(907) 337-9448 FAX (907) 337-4123

March 20, 2003

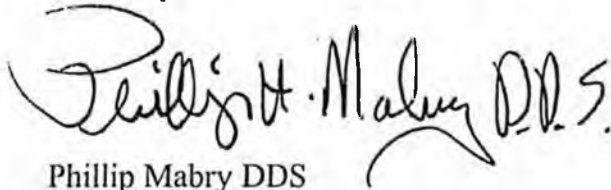
Senator Con Bunde
716 W. Fourth Avenue
Anchorage, Alaska 99501-2133

Dear Mr. Bunde,

I've just read your proposed S.B. 98. It's about time the legislature addressed this issue. You've done a remarkable job of covering all the bases. It protects the individual who is entertaining someone but doesn't eliminate the use of proper conduct and safety. Hopefully your fellow Senator's will agree and move this bill onward.

Thank you again for your good sense.

Sincerely,



Phillip Mabry DDS

Greg Remaklus, D.M.D.

Practice Limited to Periodontics

Suite 102

4200 Lake Otis Parkway

Anchorage, Alaska 99508

Office Phone (907) 561-1884

March 26, 2003

Senator Con Bunde

State Capital

Juneau, Alaska 99801-1182

Dear Senator Bunde:

Please accept my support and encouragement for Senate Bill 98. Existing liability concerns have for a long time discouraged me from transporting others and insurance is increasingly more difficult to afford. I hope your efforts can help change all that. Thank you.

Kindest personal regards,



Greg Remaklus, D.M.D.



March 20, 2003

Senator Con Bunde
State Capitol
Juneau, AK 99801-1182

Re: SB 98, "An Act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date."

Dear Senator Bunde,

On behalf of the Personal Watercraft Club of Alaska (PWCA), I would like to express our support for SB 98.

This legislation provides a much needed limit of civil liability for boaters. Currently, Alaskan boat owners have two jobs when they take the helm, not only to navigate safely through waters but also to avoid the treacherous crags of a litigious society.

The cost of not passing SB 98 can be measured in terms of lost opportunities for recreation and enjoyment. Key to this is a boat owner's legitimate fear of potentially losing ones life savings in a world rife with frivolous lawsuits and unspecified civil damages. This legislation will relieve an unnecessary and unfair burden on recreational boaters while protecting passengers from negligent acts.

It seems obvious that boat owners should be able to take their friends fishing or sightseeing without the fear of an expensive lawsuit should their trip end in misfortune. Similarly, non-commercial passengers should not have their choice to ride in a boat made by a legal system more concerned with contingency awards than with personal freedoms.

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machine of the water for many communities. They are a fun and exciting way to experience the Alaskan outdoors.

I am available to discuss this legislation with you or your staff. Please let me know how our club can assist you in reaching your vision for Alaska.



I know this is basically a copy of a letter you have received from our club president, but I share the same views.

Sincerely,

Thomas Byers
Club member

cc:

Cliff Judkins, Alaska State Boater Association

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 3, 2003

SUBJECT: Civil liability for plane/boat passengers (CSSB98())

TO: Senator Con Bunde
Attn: Karen

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides that immunity under SB 98 is an exception to the liability imposed under AS 05.25.040, the Boating Safety Act.

Section 2. Creates immunity from civil liability for negligence when an owner or operator of an aircraft or watercraft transports a passenger and does not use the aircraft or watercraft for commercial purposes. Provides that accidents resulting from gross negligence or reckless or intentional misconduct, involving a common carrier, or occurring during a sales demonstration are not immune. Also when the owner or operator has certain insurance coverage or fails to tell passengers that no insurance exists, immunity does not apply.

Section 3. Amends a sunset provision of law to provide that immunity under SB 98 is an exception to the liability imposed under AS 05.25.040. This provision of law is a "sunset" provision that only takes effect if the events described in sec. 30, ch. 28, SLA 2000, occur. This section is necessary to avoid a conflict between AS 05.25.040 and SB 98, if the sunset provisions of the Boating Safety Act take effect.

Section 4. Provides that the Act applies to accidents that occur after the effective date of the Act.

Section 5. Provides that sec. 3 of SB 98 only takes effect if the sunset provisions of Sec. 9, Chapter 28, SLA 2000, take effect.

Section 6. Effective date for all sections of SB 98, except for sec. 2.

MFF:lmb
03-132.lmb

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 98
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to civil liability for guest BRU Civil Division
passengers on an aircraft or watercraft; . . ." Component Special Litigation
Sponsor Senator Bunde
Requester Senate Transportation Committee Component No. 2213

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Under this bill, owners or operators of an aircraft or watercraft would not be liable for civil damages of a guest passenger if the owner or operator is not being compensated for the transportation, except under certain specified circumstances.

This bill concerns civil actions between private parties, and will have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
Division Attorney General's Office Date/Time 4/7/03 2:24 PM
Approved by: Kathryn Daughhettee for Gregg D. Renkes, Attorney General Date 4/7/2003
Agency Department of Law



March 24, 2003

Senator Con Bunde
State Capitol
Juneau, AK 99801-1182

Re: SB 98, "An Act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date."

Dear Senator Bunde,

On behalf of the Personal Watercraft Club of Alaska (PWCA), I would like to express our support for SB 98.

This legislation provides a much needed limit of civil liability for boaters. Currently, Alaskan boat owners have two jobs when they take the helm, not only to navigate safely through waters, but also to avoid the treacherous crags of a litigious society.

The cost of not passing SB 98 can be measured in terms of lost opportunities for recreation and enjoyment. Key to this is a boat owner's legitimate fear of potentially losing one's life savings in a world rife with frivolous lawsuits and unspecified civil damages. This legislation will relieve an unnecessary and unfair burden on recreational boaters while protecting passengers from negligent acts.

It seems obvious that boat owners should be able to take their friends fishing or sightseeing without the fear of an expensive lawsuit should their trip end in misfortune. Similarly, non-commercial passengers should not have their choice to ride in a boat made by a legal system more concerned with contingency awards than with personal freedoms.

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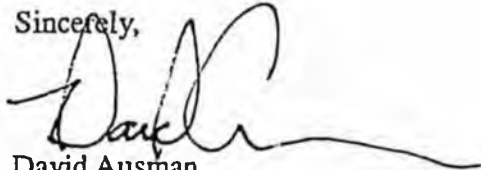
PWCA

SENATOR CON BUNDE
SENATE BILL 98

machine of the water for many communities. They are a fun and exciting way to experience the Alaskan outdoors.

I am available to discuss this legislation with you or your staff and may be reached directly at 258-2420 (wk) or at davealaska@aol.com. Please let me know how we can assist you in reaching your vision for Alaska.

Sincerely,



David Ausman
PWCA President

Personal Watercraft Club of Alaska (PWCA)

P.O. Box 112984

Anchorage, AK 99511-2984

website: www.pwcalaska.org

email: akpwerdr@aol.com

phn: 907-345-6723

cc:

Cliff Judkins, Alaska State Boater Association

23-LS0627\D
Ford
4/2/03

CS FOR SENATE BILL NO. 98()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS BUNDE, Wilken, Seekins, Cowdery, Ogan

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for boat owners and to civil liability for guest
2 passengers on an aircraft or watercraft; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 05.25.040 is amended to read:

5 **Sec. 05.25.040. Owner's civil liability. Except as provided under**
6 **AS 09.65.112, the [THE] owner of a boat is liable for injury or damage caused by the**
7 negligent operation of the owner's boat whether the negligence consists of a violation
8 of a state statute or the failure to exercise ordinary care in the operation of the boat as
9 the rules of the common law require. The owner is not liable, however, unless the
10 boat is used with the owner's express or implied consent. It is presumed that the boat is
11 being operated with the knowledge and consent of the owner if, at the time of the
12 injury or damage, it is under the control of the owner's spouse, father, mother, brother,
13 sister, son, daughter, or other member of the owner's immediate family. This chapter
14 does not relieve any other person from a liability that the person would otherwise

1 incur and does not authorize or permit recovery in excess of injury or damage actually
2 incurred.

3 * Sec. 2. AS 09.65 is amended by adding a new section to read:

4 **Sec. 09.65.112. Civil liability for aircraft and watercraft guest passengers.**

5 (a) An owner or operator of an aircraft or watercraft is not liable for the civil damages
6 of a person being transported in the owner's or operator's aircraft or watercraft if the
7 aircraft or watercraft is not being used for commercial purposes.

8 (b) This section does not apply to a civil action

9 (1) for damages resulting from

10 (A) gross negligence or reckless or intentional misconduct;

11 (B) an act or omission of an owner or operator of an aircraft or
12 watercraft who is a common carrier; or

13 (C) an act or omission of an owner or operator of an aircraft or
14 watercraft that occurs while demonstrating an aircraft or watercraft to a
15 prospective buyer; or

16 (2) described under (a) of this section if the owner or operator

17 (A) has insurance that would compensate the claimant for civil
18 damages awarded against the owner or operator; an owner or operator who is
19 insured as described in this subparagraph is not liable for civil damages
20 described in (a) of this section that exceed the applicable insurance; or

21 (B) does not have insurance that would compensate a person
22 being transported as described under (a) of this section for civil damages
23 awarded against the owner or operator and, before the person being transported
24 enters the aircraft or watercraft, the owner or operator fails to provide notice to
25 the person being transported that the owner or operator is uninsured as
26 described in this subparagraph.

27 * Sec. 3. Section 9, ch. 28, SLA 2000 is amended to read:

28 Sec. 9. AS 05.25.040 is repealed and reenacted to read:

29 **Sec. 05.25.040. Owner's civil liability. Except as provided under**

30 **AS 09.65.112, the [THE] owner of a watercraft is liable for injury or damage caused**
31 **by the negligent operation of the owner's watercraft whether the negligence consists of**

1 a violation of a state statute or neglecting to observe ordinary care in the operation of
2 the watercraft as the rules of the common law require. The owner is not liable,
3 however, unless the watercraft is used with the owner's express or implied consent. It
4 is presumed that the watercraft is being operated with the knowledge and consent of
5 the owner if, at the time of the injury or damage, it is under the control of the owner's
6 spouse, father, mother, brother, sister, son, daughter, or other member of the owner's
7 immediate family. This chapter does not relieve any other person from a liability that
8 the person would otherwise incur and does not authorize or permit recovery in excess
9 of injury or damage actually incurred.

10 * Sec. 4. The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 APPLICABILITY. This Act applies to causes of action that accrue on or after the
13 effective date of the applicable section of this Act.

14 * Sec. 5. Section 3 of this Act takes effect on the date sec. 9, ch. 28, SLA 2000, takes
15 effect.

16 * Sec. 6. Except as provided in sec. 5 of this Act, this Act takes effect July 1, 2003.

Subject: SB 98

Date: Sun, 06 Apr 2003 16:33:19 -0800

From: Don & Nita Meierhoff <[REDACTED]>

To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Dear Senator Bunde:

Just a short note to let you know I support your bill SB 98 wholly. I am an owner of an aircraft and the liability prospect has stopped me from transporting friends out fishing and hunting with me a number of times.

Good luck and thanks for the hard work!

Don Meierhoff

3637 North Point Dr.

Anchorage, AK. 99502

907-243-1046

A M E N D M E N T

OFFERED IN THE SENATE

TO: CSSB 98(), Draft Version "D"

- 1 Page 2, line 12:
- 2 Delete "who is a common carrier"
- 3 Insert "if the aircraft or watercraft is being operated as a common carrier"

Subject: SB98

Date: Mon, 7 Apr 2003 09:43:19 -0800

From: "Robert Dreeszen" [REDACTED]

To: <Senator_Con_Bunde@Legis.state.ak.us>

We support SB98.

Robert & Carol Dreeszen
Outlet Lower Ugashik Lake AK

Subject: Re: [Fwd: SB 98 Scheduled for a Hearing]
Date: Sun, 06 Apr 2003 21:34:37 -0800
From: (deleted for privacy)
To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Karen,

At our meeting last week, the KCK (Knik Canoers and Kayakers) Board of Directors voted unanimously to endorse this bill. I will be out of town for the rest of the week.

Thank you,
-Fran Hall

Re: SB 98

Subject: Re: SB 98

Date: Sun, 06 Apr 2003 14:35:35 -0800

From: Marilyn Warren [REDACTED]

To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Mr. Bunde:

As an aircraft and water craft owner I encourage you to support the passage of SB 98. As an aircraft owner I can not afford to purchase insurance and so am denied the pleasure of taking friends or acquaintances flying with me because of the substantial liability involved. This bill needs to be passed. Thank you, Charles Warren

Subject: SB 98

Date: Sun, 06 Apr 2003 16:33:19 -0800

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To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

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Anchorage, AK. 99502

907-243-1046

Alaska State Legislature

DURING SESSION
STATE CAPITOL
JUNEAU, AK 99801-1182
(907) 465-4843 (800) 892-4843
FAX: (907) 465-3871

WEB SITE
www.akrepublicans.org/Bunde

DURING INTERIM
716 W. FOURTH VE.
ANCHORAGE, AK 99501-2133
(907) 269-0181
FAX: (907) 269-0184

E-MAIL
Senator.Con.Bunde@legis.state.ak.us

SENATOR CON BUNDE

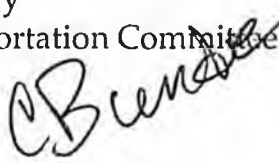
District P

VICE-CHAIR: SENATE FINANCE COMMITTEE
CHAIR: SENATE LABOR & COMMERCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

MEMORANDUM

DATE: April 1, 2003

TO: Senator John Cowdery
Chair, Senate Transportation Committee

FROM: Senator Con Bunde 

RE: Hearing Request

I respectfully request that you schedule a hearing for SB 98, "An Act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date" at your earliest convenience.

I have attached the following materials:

- SB 98
- Sponsor Statement
- Sectional Analysis
- Letters of Support

I am expecting additional letters of support and an amendment to clarify that the bill applies only to non-commercial owners and operators on page 1, lines 8-10. I will provide those to you as soon as they come in.

If you require any additional backup, please contact my aide, Karen McCarthy, at 3881.

Thank you.

Wagne

Subject: SB98

Date: Mon, 7 Apr 2003 09:43:19 -0800

From: "Robert Dreeszen" [REDACTED]

To: <Senator_Con_Bunde@Legis.state.ak.us>

We support SB98.

Robert & Carol Dreeszen
Outlet Lower Ugashik Lake AK

Subject: Re: [Fwd: SB 98 Scheduled for a Hearing]
Date: Sun, 06 Apr 2003 21:34:37 -0800
From: (deleted for privacy)
To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Karen,

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Thank you,
-Fran Hall

Re: SB 98

Subject: Re: SB 98

Date: Sun, 06 Apr 2003 14:35:35 -0800

From: Marilyn Warren [REDACTED]

To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Mr. Bunde:

As an aircraft and water craft owner I encourage you to support the passage of SB 98. As an aircraft owner I can not afford to purchase insurance and so am denied the pleasure of taking friends or acquaintances flying with me because of the substantial liability involved. This bill needs to be passed. Thank you, Charles Warren

Subject: SB 98

Date: Sun, 06 Apr 2003 16:33:19 -0800

From: Don & Nita Meierhoff <[REDACTED]>

To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

Dear Senator Bunde:

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Good luck and thanks for the hard work!

Don Meierhoff

3637 North Point Dr.

Anchorage, AK. 99502

907-243-1046

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 3, 2003

SUBJECT: Civil liability for plane/boat passengers (CSSB98())

TO: Senator Con Bunde
Attn: Karen

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides that immunity under SB 98 is an exception to the liability imposed under AS 05.25.040, the Boating Safety Act.

Section 2. Creates immunity from civil liability for negligence when an owner or operator of an aircraft or watercraft transports a passenger and does not use the aircraft or watercraft for commercial purposes. Provides that accidents resulting from gross negligence or reckless or intentional misconduct, involving a common carrier, or occurring during a sales demonstration are not immune. Also when the owner or operator has certain insurance coverage or fails to tell passengers that no insurance exists, immunity does not apply.

Section 3. Amends a sunset provision of law to provide that immunity under SB 98 is an exception to the liability imposed under AS 05.25.040. This provision of law is a "sunset" provision that only takes effect if the events described in sec. 30, ch. 28, SLA 2000, occur. This section is necessary to avoid a conflict between AS 05.25.040 and SB 98, if the sunset provisions of the Boating Safety Act take effect.

Section 4. Provides that the Act applies to accidents that occur after the effective date of the Act.

Section 5. Provides that sec. 3 of SB 98 only takes effect if the sunset provisions of Sec. 9, Chapter 28, SLA 2000, take effect.

Section 6. Effective date for all sections of SB 98, except for sec. 2.

MFF:lmb
03-132.lmb

LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 18, 2003

SUBJECT: Civil liability for plane/boat passengers (SB 98)

TO: Senator Con Bunde
Attn: Karen

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Creates immunity from civil liability for negligence when an owner or operator of an aircraft or watercraft transports a passenger and does not receive compensation for the transportation. Provides that accidents resulting from gross negligence or reckless or intentional misconduct, involving a common carrier, or occurring during a sales demonstration are not immune. Also when the owner or operator has certain insurance coverage or fails to tell passengers that no insurance exists, immunity does not apply.

Section 2. Provides that the Act applies to accidents that occur after the effective date of the Act.

Section 3. Effective date.

MFf:lmb
03-089.lmb

ALASKA BOATING ASSOCIATION



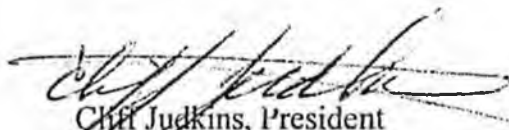
Senator Con Bunde
State Capital
Juneau Alaska 99801-1182

March 26,2003

Re: Senate Bill 98

Dear Senator Bunde,

The Alaska Boating Association supports the passage of SB 98, "An act relating to civil liability for guest passengers on an aircraft or watercraft." The Alaska Boating Association is a statewide organization with a membership of more than 1200. The association is an organization dedicated to the enhancement and preservation of the boating experience in Alaskan waters. Our organization represents the boating public on all issues concerning boating activities. As a past member of the Governors Boating Safety Advisory Council I personally reviewed statistics depicting boating accidents and related personal injury. Alaskans are involved in a high rate of boating accidents with personal injury and death to both operators and passengers- one of the results is high insurance rates. Insurance rates for the group of boaters that I fall into has more than doubled in the past three years. My insurance has gone from \$825.00 three years ago to over \$1,600.00 for the coming season. Other boaters have experienced similar rate increases. Some folks have actually made the decision not to purchase a boat, or to sell the one they have due to high insurance rates. Passage of SB98 would surely help to buffer future rate increases. Again the Alaska Boating Association is a strong supporter of SB98 and we commend you for the time that you have spent drafting and introducing this legislation.


Cliff Judkins, President
Alaska Boating Association

Cliff Judkins - President • P.O. Box 874124 • Wasilla, Alaska 99687
(907) 373-3591 • Fax 373-3592 • E-Mail: cjudkins@customcpu.com



Ed & Inge Crane

*5260 Lupin Place
Anchorage, AK 99507*

Senator Con Bunde
Alaska State Legislature
State Capitol
Juneau, Alaska 99801-1182

March 18, 2003

Dear Senator Bunde,

Thank you for introducing SB 98. While I am not sufficiently knowledgeable to address the commercial aspects of the legislation, I would like to express wholehearted support for the potential effects on private aircraft owners and operators.

I am an instrument-rated private (i.e., non-commercial) pilot who owns a modest small airplane. I fly that airplane strictly for pleasure, under favorable conditions only, and I operate only from improved airports. I have some 1,400+ hours of flying experience, with no record of accidents, incidents, emergencies, regulatory violations, or insurance claims.

Despite the foregoing, it has for several years been increasingly difficult (as I believe it has been for most Alaska pilots) to obtain and/or afford adequate liability insurance. Because of my history, my carrier has "grandfathered" my personal injury liability coverage at a level which it no longer makes available in Alaska generally. Nevertheless, I no longer carry passengers other than my spouse. Within the context of today's society and the influence of personal injury lawyers, the risks of exposure for myself, my family, and my estate are more than I can rationally tolerate. On the other hand, I would have no problem assuming the totally controllable risks of "gross negligence or reckless or intentional misconduct" which would result in liability under SB 98.

So no longer can I share with friends, neighbors, or visitors the awesomeness and beauty of SouthCentral Alaska which can be reasonably and safely accessed by a simple and inexpensive flight. No longer can I experience the pleasure of implementing a youngster's "first flight", or of using my aircraft to pique a teenager's interest in an aviation career. If passed, SB 98 would make these things once again possible - not only for me, but for countless thousands of Alaskans and visitors!

Very truly yours,



From: Dr. Frost
To: senator.con.bunde.@legis.state.ak.us
Cc: (left blank for privacy purposes)
Sent: Monday, March 17, 2003 6:19 PM
Subject: Senate Bill 98

Dear Senator Bunde,

I have reviewed Senate Bill 98 and would like to express my strong support for it. As you know I own and fly my own piper cub here in Alaska. I have never flown commercially. I have always been concerned with my family's potential liability if I were to be involved in a serious aircraft accident and to have any passengers injured.

Clearly since I do all of my own flying I never place a passenger in a situation which I am personally not comfortable for myself. However as you know there are times when weather changes unexpectedly or other circumstances may create a hazardous situation. Since the passengers are enjoying the benefits of the flight for no cost they should be expected to shoulder some of the responsibility as well.

I will be out of town for the next week. I can not personally speak for the Alaska Bowhunters Association and Alaska Chapter of SCI but I would suspect that they would support the bill as well. By sending them a copy of this I will solicit their opinions.

Sincerely,
John D. Frost MD

Subject: Re: SB 98, Recreational Liability Bill
Date: Mon, 03 Feb 2003 18:45:10 -0900
From: "William G. Nelson"
To: Con Bunde <Senator_Con_Bunde@Legis.state.ak.us>

I strongly support SB 98. As an owner of a small private aircraft, I do on occasion take visitors to our state for a "flight seeing" ride. They always indicate that it was the highlight of their trip. I would do so more often, but do not feel the need to shoulder the liability.

Certainly, visitors that see the real Alaska are less likely to be swayed by special interest groups supporting causes detrimental to the development of Alaska.

Thank you for your sponsorship of this bill.

William G. Nelson

Greg Remaklus, D.M.D.

Practice Limited to Periodontics

Suite 102

4200 Lake Otis Parkway

Anchorage, Alaska 99508

Office Phone (907) 561-1884

March 26, 2003

Senator Con Bunde
State Capital
Juneau, Alaska 99801-1182

Dear Senator Bunde:

Please accept my support and encouragement for Senate Bill 98. Existing liability concerns have for a long time discouraged me from transporting others and insurance is increasingly more difficult to afford. I hope your efforts can help change all that. Thank you.

Kindest personal regards,



Greg Remaklus, D.M.D.

Phillip H. Mabry, D.D.S.

2601 BONIFACE PARKWAY ANCHORAGE, ALASKA 99504

(907) 337-9448 FAX (907) 337-4123

March 20, 2003

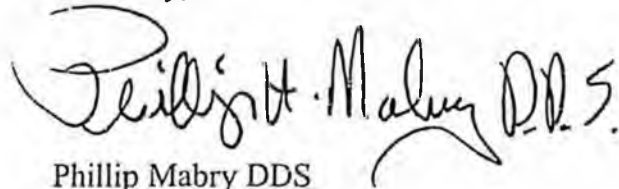
Senator Con Bunde
716 W. Fourth Avenue
Anchorage, Alaska 99501-2133

Dear Mr. Bunde,

I've just read your proposed S.B. 98. It's about time the legislature addressed this issue. You've done a remarkable job of covering all the bases. It protects the individual who is entertaining someone but doesn't eliminate the use of proper conduct and safety. Hopefully your fellow Senator's will agree and move this bill onward.

Thank you again for your good sense.

Sincerely,

A handwritten signature in cursive script that reads "Phillip H. Mabry D.D.S." with a decorative flourish at the end.

Phillip Mabry DDS

March 26, 2003

Senator Con Bunde
State Capitol
Juneau, AK 99801-1182

Dear Senator Bunde,

I am writing in support of Senate Bill 98, "an act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date".

As a responsible watercraft and boat owner I feel this is important legislation to provide a limit on civil liability for boaters (and aircraft owners). We live in a litigious society and it seems everyone wants to lay fault or blame on the other person and make them pay. This legislation will allow boat owners and aircraft owners a little more peace of mind when taking passengers on board for pleasure rides.

Thank you for writing a bill that promotes safety in recreational activities. I am a member of the Personal Watercraft Club of Alaska (PWCA) as well as Alaska Boating Association. I know the PWCA has given their support to this bill and I'm sure they have contacted the Boating Association and asked them to contact you with their support as well.

If there is anything else I can do to help promote and support this bill please do not hesitate to contact me. I can be reached at 345-6723 or email at akpwcrdr@acsalaska.net.

Sincerely,



Gina Poths
11600 Trails End Rd.
Anchorage, AK 99507

March 26, 2003

Senator Bunde

REF: SB98 Recreational Liability

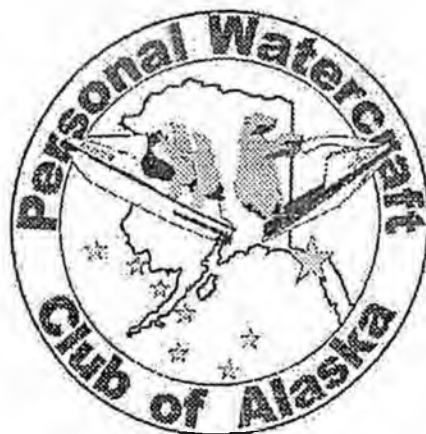
Senator Bunde, although I am writing this letter on my behalf to express support for SB 98 "Good Neighbor Bill" I am also President of the Alaskan Bowhunters Association one of the largest outdoor organizations in the state and I have asked that the entire executive board and general membership across the state show their support.

I moved to Alaska 29 years ago so that I may be involved in the out of doors in the most beautiful state in the union. I have always owned boats for recreation since moving to Alaska and have been fortunate to travel around the state with friends of mine that own small fixed wing planes.

I have discovered as has many of my friends that one of the greatest joys of living in Alaska is the ability to share the experience of the outdoors with friends in Alaska that may not have the ability or friends and business acquaintances from lower forty-eight. A concern that I have always had is the possibility of leaving my family liable for something that may have not been in my control to prevent. There is always a risk of potential life threatening accidents with any journey in to the outdoors in Alaska that is part of the mystique of Alaska. If I am operating my boat or plane in a safe manor and an accident does occur I do not believe that my family should be liable for something that they had no part in.

This bill is long over due and I encourage the Senate to fully support this bill. There is no disadvantage to this bill other than leaving the door open for frivolous lawsuits. Thank you for your time and consideration into this matter.

Sincerely
Phil Pringle
10086 Explorer Cr.
Anchorage AK. 99515
907-344-8812



March 20, 2003

Senator Con Bunde
State Capitol
Juneau, AK 99801-1182

Re: SB 98, "An Act relating to civil liability for guest passengers on an aircraft or watercraft; and providing for an effective date."

Dear Senator Bunde,

On behalf of the Personal Watercraft Club of Alaska (PWCA), I would like to express our support for SB 98.

This legislation provides a much needed limit of civil liability for boaters. Currently, Alaskan boat owners have two jobs when they take the helm, not only to navigate safely through waters but also to avoid the treacherous crags of a litigious society.

The cost of not passing SB 98 can be measured in terms of lost opportunities for recreation and enjoyment. Key to this is a boat owner's legitimate fear of potentially losing one's life savings in a world rife with frivolous lawsuits and unspecified civil damages. This legislation will relieve an unnecessary and unfair burden on recreational boaters while protecting passengers from negligent acts.

It seems obvious that boat owners should be able to take their friends fishing or sightseeing without the fear of an expensive lawsuit should their trip end in misfortune. Similarly, non-commercial passengers should not have their choice to ride in a boat made by a legal system more concerned with contingency awards than with personal freedoms.

Our club promotes the sport of watercraft riding, education, and boating safety. Several of our members belong to the Coast Guard Auxiliary. Annually, we contribute our time and equipment to help Alaskans with disabilities at the Challenge Alaska Summer Splash. We are staunch supporters of boating rights and are a member club of the Alaska Outdoor Council, the Alaska State Boaters Association, and ABATE. Because of our interest in recreational boating, the PWCA is particularly interested in the success of your legislation.

Almost all of our club members ride 2-4 seat watercraft and take passengers. We have traveled from Whittier to Valdez and from Anchorage to Kenai on PWC. Modern PWC are quiet transportation, leave little wake, and burn a fraction of the fuel of many boats. These clean burning machines meet the rigid 2006 EPA standards. Light, durable, and stable, they very well may prove to be the snow

machine of the water for many communities. They are a fun and exciting way to experience the Alaskan outdoors.

I am available to discuss this legislation with you or your staff. Please let me know how our club can assist you in reaching your vision for Alaska.



I know this is basically a copy of a letter you have received from our club president, but I share the same views.

Sincerely,

Thomas Byers
Club member

cc:

Cliff Judkins, Alaska State Boater Association