

12177

HOUSE JUDICIARY

199

AMENDMENT #5

W/D

Holmes

1 Page 1, lines 9 to 10

2 Amend to read:

3 **"1) That the onboard sale results in a commission paid by the shoreside**
4 **vendor;"**

5 Renumber as necessary

AMENDMENT

6

Adopt

HOLMES

1 Page 1, line 5

2 Insert new section:

3 "AS 45.50.474 is amended to read: (a) A person may not conduct a promotion on
4 board a cruise ship that mentions or features a business in a state port that has paid
5 something of value for the purpose of having the business mentioned, featured, or
6 otherwise promoted, unless the person conducting the promotion clearly and fully
7 discloses ~~orally~~ and in all written materials used in the promotion that the featured
8 businesses have paid to be included in the promotion. **If the value paid by the**
9 **business is a commission of more than 10% of any single sale, the disclosure**
10 **shall also state that more than a 10% commission is being retained by the**
11 **person or entity making the promotion, and that other alternatives may be**
12 **available at a port of call; and the disclosure shall provide the address,**
13 **Internet website address, and telephone number of any existing visitors**
14 **bureaus at each future port of call.** All such written notice of disclosure shall
15 be in a type not less than 14-point typeface and in a contrasting color calculated to
16 draw attention to the disclosure"

17 Renumber as necessary

ADOPT

AMENDMENT NO. 7

Offered in the House

BY REPRESENTATIVE RAMRAS

To Draft version CSHB217(JUD) 25-LS0696\V

P.1, L.9-10 Delete "paid promotion by a shoreside vendor" and insert "retail/wholesale relationship between the vessel operator and the shoreside vendor," ^{that results} in a percentage of the sale retained ^{by} the cruise ship."



Alaska

April 19, 2007

The Honorable Lindsey Holmes
Alaska State Capitol Building
Juneau, Alaska 99801

RE: CSHB 217 (EDT)

Dear Representative Holmes,

We appreciate your willingness to assist Alaska's small business owners with the unfairness created in the disclosure section of the Cruise Ship Initiative. The proposed committee substitute to HB 217 is generally helpful to those small businesses.

We would point out that several parts of Section 1 that are significantly unfair to small business owners.

1. Page 1, lines 11 and 12, require that information be made available that "other alternatives may be available for a **lower price**." This suggests that the offered activity is excessively high priced. It does not recognize the quality of the activity nor that it may be lower priced than alternatives. This should be changed to reflect that other alternatives might be available without a required judgment that may or may not be valid.

We would recommend that "for a lower Price" be replaced with, "at differing prices and quality."

2. Page 1, lines 13 and 14 and page 2 lines 1 and 2, require contact information for all competitors that have not paid for promotional consideration. It basically says that if any operator has a promotional or commission arrangement, all vendors get the benefit by the requirement of this disclosure at no cost. That is clearly unfair to those who use cruise ships as booking agents or pay promotional fees.

The current language only requires the disclosure of the address and telephone number of the specific shoreside vendor if asked by the consumer. Thus, even the disclosure of the visitor bureau is a significant change to the initiative.

We would recommend that "and a list of tours, flight seeing operations, or other shoreside activities listed with the visitors bureaus" be removed.

3. Page 2, lines 3 through 8, require disclosure of any commission for shoreside activities exceeding 33%. While this is an improvement from current language in the initiative, we maintain our concern that this type of disclosure is not applied to like

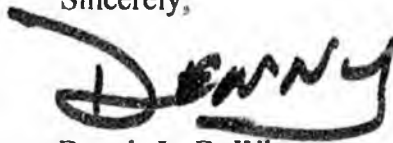
National Federation of Independent Business — ALASKA
P.O. Box 34761 • Juneau, AK 99803 • 907-723-6667 • denny.dewitt@nfib.org

Honorable Lindsey Holmes
CSHB 217 (EDT)
Page 2

businesses elsewhere by law and remains an inappropriate invasion of a business' proprietary information.

The cruise ship season is almost upon us. NFIB would encourage the proposed changes be made in the Judiciary Committee and that it be promptly moved to the House Floor for consideration. It is imperative for small and independent businesses that we resolve this problem prior to the beginning of the season.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis L. DeWitt". The signature is stylized with a large, sweeping initial "D" and a long horizontal stroke at the end.

Dennis L. DeWitt
Alaska State Director
National Federation of Independent Business

cc: Representative Jay Ramras, Chair, Judiciary Committee
Representative Nancy Dahlstrom
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg

Alaska State Legislature

House of Representatives

Alaska State Capitol
Juneau, Alaska 99801-1182
1-907-465-4919 (phone)
1-888-478-4919 (toll free)
1-907-465-2137 (fax)



Interim Address
716 West Fourth Avenue
Anchorage, Alaska 99501-2133
(phone) 1-907-269-0120
(fax) 1-907-269-0122

Representative Lindsey Holmes
District 26

SPONSOR STATEMENT

CS for HB 217 (JUD): Tourism Disclosures and Notices

The Judiciary CS for HB 217 makes important changes to the version that passed out of the Special Committee on Economic Development, Trade and Tourism. First, it changes lines 11-12 to require disclosure of "alternatives at different prices and with different features," instead of "alternatives at a lower price. This change is important because not all tours sold off the cruise ships are cheaper, nor do they offer precisely the same experiences. Second, this CS removes from lines 13-14 the requirement that the cruise ships provide a list of alternative tours. The requirement of a list was redundant because Visitor's Bureaus list tours along with their contact information already. Finally, the new CS requires disclosure when commission rates on tours are over 25% instead of over 33%. This change reflects agreement between vendors and the initiative sponsors on what constitutes a commission high enough to require disclosure.

HB 217 addresses important concerns Alaskan small businesses have regarding the disclosure section of Ballot Measure 2: "The Cruise Ship Initiative". The goal of the disclosure section was originally to increase disclosure requirements to promote fair competition between local businesses. As written, the law on disclosure will not promote competition, and has the potential to be punitive to local Alaskan businesses that offer tours to cruise line passengers. HB 217 will amend the language from the initiative to promote competition between all Alaskan tour businesses, and still require honest disclosure by the cruise lines.

HB 217 would maintain the requirement that sales agents onboard cruise ships to inform passengers that the tours sold onboard are a paid promotion. Under HB 217 the sales agents would also have to let passengers know that different tours also may be available at future ports of call, and then provide the contact information for the visitor's bureaus in each port as a tool to book those tours independently.

Additionally, HB 217 amends the commission rate disclosure of the original language to require cruise lines to disclose when commission rates are excessively high, while maintaining the privacy of the exact commission rate for any business. This would protect the proprietary information of our local Alaskan tour companies, and still hold cruise lines accountable to maintain reasonable commission rates, protecting consumer rights.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB217-LAW-CFB-4-20-0
 Bill Version: HB 217
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Law

Title An Act relating to tourism disclosures and notices.

RDU Civil

Component Commercial & Fair Business

Sponsor REPRESENTATIVE(s) HOLMES

Requester House Judiciary

Component No. _____

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
-----------------------------	--	--	--	--	--	--

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

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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill modifies the disclosure requirements for shipboard promotions of tours, flightseeing and other shoreside activities under AS 45.50.474 of the Unfair Trade Practices and Consumer Protection Act. There would be no fiscal impact on the Department of Law.

Prepared by: Robert Meiners, Admin. Services Mngr.

Phone 465-5427

Division Administrative Services Division

Date/Time 4/20/07 4:00 PM

Approved by: Robert Meiners for Talis Colberg, Attorney General

Date 4/20/2007

Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB217-COM-OED-04-02-07
 () Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Commerce

Title: Tourism Disclosures and Notices

RDU: Comm Assist & Ec Dev (405)

Component: Office of Economic Development

Sponsor: Holmes, Ramras

Requester: House EDTT

Component No.: 2743

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
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						
-----------------------------	--	--	--	--	--	--

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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation amends AS 45.50.474(b) to provide an alternative to the requirement to disclose commission rates that tour operators pay to have their tours sold onboard the ships. This legislation does not impact the operations of the department.

Prepared by: Bill Allen, Development Manager
 Division: Office of Economic Development
 Approved by: Emil Notti, Commissioner
 Agency: Commerce, Community, and Economic Development

Phone: 907 465 5478
 Date/Time: 4/2/07 1:03 PM
 Date: 4/2/2007



2006 - 2007

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Ketchikan Visitors Bureau
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K2 Aviation
- Jerry Scholand**
Alaska B & B Association
- Bob Wysocki**
Huna Totem Corporation

Resolution

In support of HB 217

"An Act relating to required onboard disclosures and displays about tours, flightseeing operations, other shore-side activities, and visitors bureaus, and providing for an effective date"

WHEREAS, the visitor industry is an important economic engine of Alaska's private sector; and,

WHEREAS, travel and tourism expenditures in Alaska represent more than \$15 billion annually; and,

WHEREAS, the visitor industry represent more than 40,000 jobs annually; and,

WHEREAS, the visitor industry has substantial opportunity for continued growth, and,

WHEREAS, the cruise industry delivers almost 1,000,000 visitors annually to Alaska; and,

WHEREAS, a vital part of the cruise and tour visitor's experience is shore excursions and land tours; and,

WHEREAS, the Cruise Ship Ballot Initiative passed in August of 2006, requires disclosure of commissions and proprietary business information; and,

WHEREAS, this aspect of the Cruise Ship Ballot Initiative will harm Alaskan owned and operated tour businesses; and,

WHEREAS, This legislation, HB 217, corrects serious flaws in the law created by the over-broad ballot initiative and it provides consumers with useful information, but not proprietary information about individual Alaskan tour operators;

THEREFORE, BE IT RESOLVED, that the ALASKA TRAVEL INDUSTRY ASSOCIATION BOARD OF DIRECTORS is in support of the passage of HB 217 because it implements an alternative means of communicating the cruise line and shore excursion operator business relationship.

Signed: _____
Ron Peck, President & COO, Alaska Travel Industry Association



ANCHORAGE CONVENTION & VISITORS BUREAU
BOARD OF DIRECTORS

RESOLUTION 2007-01

A Resolution in support of House Bill 217

WHEREAS, Alaska's tourism industry and small businesses contribute heavily to the state's economic well-being; and,

WHEREAS, the disclosure law as written in Ballot Measure 2 has the potential to be extremely punitive to Alaska businesses that offer tours to cruise line passengers; and,

WHEREAS, the required disclosure would expose the price structures of these businesses, leading to unfair price undercutting; and,

WHEREAS, House Bill 217 would offer an alternative to businesses, especially those that contract with the cruise lines, to provide an alternative method of disclosure.

NOW THEREFORE be it resolved that the Board of Directors of the Anchorage Convention & Visitors Bureau supports House Bill 217 as a measure that will both protect and enhance Alaska tourism businesses.

Approved on this, the 30th day of March, 2007.

ATTESTED BY:


Dave Karp
Chair


Bruce Bustamante
President & CEO

Southeast Exposure
P.O. Box 9143
Ketchikan, AK 99901
907-225-8829

April 2, 2007

Dear Lindsey Holmes,

Southeast Exposure has been in business since 1986 providing quality sea kayak trips to the cruise lines that come Ketchikan. Since we started, we have seen the birth of countless new and successful tour businesses that bring revenue to our city. When the cruise passengers want to know what sort of commission the cruise lines receive, I always tell them. But at the same time I point out what kind of commission retail sales take. Value wise an experience such as seeing the natural wonders of Alaska there is very little comparison.

I think that a stable commission would be fair, but then again, why should I be able to dictate this? However, since the cruise lines are private entities, I think their rights are the same as ours to keep that information to themselves. Should a guest care to know, I think they should be given that information at the discretion of the party asked. But as far as whether they should be REQUIRED to give that information, I do not think there is any precedent in our democratic free enterprise society such as the proposed 14 point font printed on the ticket. I would go out on a limb and say this would not be legal to require a company to disclose to all their profits. That would be a little akin to telling Southeast Exposure to publish our profits in the local newspaper.

It is not just that we do business with some of the cruise lines, and not that I am a huge fan of all their policies, it is just the principal of the matter.

Thank you so much for your initiative in this fundamental matter.

Betsey Burdett, owner
Southeast Exposure

907-225-8829

Allen Marine Tours
Ketchikan Division
50 Front Street, Suite 209
Ketchikan, Alaska 99901
907-225-8100

April 2, 2007

Dear Representative,

I am writing this letter in support of House Bill 217 that is scheduled for a hearing tomorrow evening. I strongly urge you to support House Bill 217.

Ballot Measure 2, "The Cruise Ship Initiative" includes a provision that requires cruise lines to disclose the rate of commission received on the sales of shore excursions sold onboard their vessels. I find this particularly unfair and absolutely un-American. Our economy in the United States is based on the system of capitalism which is characterized "by private or corporate ownership of capital goods and by prices, productions, and distribution of goods **that are determined mainly by competition in a free market**". This original provision would violate that principle of free enterprise and severely impact a particular sector of companies that sell their tours onboard these cruise ships.

I live in Ketchikan and have worked in Alaska since 1985. In 2004 I made a transition from the fishing industry to the tour industry. I was grateful there was a viable cruise ship industry which had spawned a proliferation of businesses that provide opportunities for local folks to remain in Alaska to live and work. Allen Marine is just such a family-owned operation and the epitome of just such a business. They have worked very hard over the course of 35 years to create and maintain a mutually beneficial relationship with the cruise line companies who provide marketing expertise and exposure. For these tour companies, a 'forced disclosure' would create an obvious economic disadvantage. Allen Marine and similar tour companies should not now be penalized for the diligent work and committed effort that has infused Juneau, Sitka, Ketchikan and other Alaskan communities with much needed revenue these past several decades. When I fished for a living, I was not obligated to disclose the wholesale price of shrimp or crab to my prospective customers. It is unreasonable and patently ridiculous to ask these tour companies to disclose the wholesale price of their tours to their consumer now. Alaska will be setting a terrible precedent and mining an already level playing field.

Please vote yes for HB 217.

Sincerely,
Amanda Painter
Allen Marine Tours, Ketchikan

James Waldo

From: Ethan Tyler [ETyler@crti.com]
Sent: Monday, April 02, 2007 2:11 PM
To: Rep. Lindsey Holmes
Subject: HB217

Hello Ms. Holmes,

My name is Ethan Tyler, and I am an employee of Alaska Heritage Tours based in Anchorage, Alaska. We own Prince William Sound Cruises and Tours, and Kenai Fjords Tours, both partners with the cruise ship industry.

I would like to express my support for HB217, as the mandated disclosure of private pricing structures that we have with the Cruise Lines is an unfair practice. By passing HB217, and allowing the Cruise Lines to disclose that they have a business relationship with my company, and provide alternatives, it allows us to keep confidential commission and price structures private.

I am certainly available for comment, please don't hesitate to contact me with any questions.

Best regards,

Ethan Tyler

Sales Manager, Marine Operations
Kenai Fjords Tours / Prince William Sound Cruises and Tours

Alaska Heritage Tours
2525 C St.
Anchorage, AK 99503
907-263-5524
907-265-4530 Fax
907-529-0156 Cell

James Waldo

From: R.B. Henderson Jr. [rbartelow@mac.com]
Sent: Monday, April 02, 2007 11:58 AM
To: Rep. Lindsey Holmes
Subject: H.B.217

I would like to voice my support of H.B. 217.

Chilkat Guides Ltd. is in the business of providing shore excursions to the cruise Lines. We are one of the largest employers in the area. The Cruise Ship Ballot Measure as written is potentially very damaging to our business.

In any business the pricing structure of it's products has the right to be held in confidence so as not to be used unfairly against that business by one of it's competitors. Imagine if state procurment laws said that all contract proposals from right handed people must be published in a conspicuous location so that all left handed people can see them before submitting their own proposals. This is what we are 'ace with with the present Cruise Ship Ballot Measure.

The Cruise Ship Ballot Measure as written is discriminating against our business. It will do nothing but etard tour sales on board he curise ships, which will hurt our business, and any down turn in our business causes unemployment and underemployment, and hurts the economy of our community.

I believe that the framers of the Cruise Ship Ballot Measure thought that they were doing the local tour operators a favor by inciuding this provision. But, well meaning as they may have been this part of the measure will do nothing but damage our businesses.

Please support the passage of H.B 217. Correct the impending discrimination against our businesses.

Thanks you for your consideration,
Bart Henderson
Chilkat Guides, Ltd.
Haines, Ak.



Alaska

March 24, 2007

The Honorable Lindsey Ho
Room 405
Alaska State Capitol Building
Juneau, Alaska 99801

RE: House Bill 217

Dear Representative Ho:

On behalf of the Alaska Chapter of the National Federation of Independent Business, I wish to express our support for House Bill 217. The Alaska Chapter of the National Federation of Independent Business, with over 2,500 members is the largest small-business advocacy group in the state.

HB 217 would protect providers of shoreside activities from being forced to use cruise ships as bookends while providing cruise ship passengers with the ability to shop for alternative providers of shoreside activities. This will ensure that consumers be informed of options and be in a competitive position compared to those do not use cruise ships as bookends.

Denny Dewitt
Director
Alaska Chapter
National Federation of Independent Business

cc: Representative Mark N
Development, Trade and
Representative Gatto
Representative Johansen
Representative Kohring
Representative Lynn
Representative Doll
Representative Doogan
Chair, House Special Committee on Economic



March 23, 2007

Dear Representative Holmes,

I am writing in support of HB217 regarding the revision of Measure 2, the disclosure of cruise line mark ups of shore excursions. I own Snorkel Alaska in Ketchikan. This is our seventh year in business and we employ 7 people each summer. I also worked on board Norwegian Cruise Line for seven years in the Shore Excursion Department.

For the past seven years Snorkel Alaska has sold our tour exclusively through the cruise lines with no independent sales. We like this arrangement as we save money in advertising and staffing. The ships handle all of our bookings for us so we can focus on providing quality tours. I am very happy with the rate that the ship pays us for our services. With a tour as silly sounding as snorkeling in Alaska we need the representation and sales efforts of the cruise lines to stay in business. Yes, they mark up our tour for their efforts and that is fine with me. As with any business goods or services are purchased at a wholesale rate and then marked up for retail sale. I know of no business in America that has to post their mark up in 14 point font and contrasting color. How can this be legal?

The law as it now stands targets us unfairly as a group. The independent tour operators that support this new disclosure law have the same opportunity to offer their tours to the cruise lines that I have. They choose not to or perhaps they don't meet the criteria as set forth by the cruise lines. They have a choice to meet the criteria by providing a quality experience and complying with insurance and other requirements or not. Cruise ship passengers also have the choice of booking through the ship or independently. Booking through the ship offers piece of mind. The cruise lines have evaluated the operator and made sure they maintain insurance and provide a quality experience. Also, if the tour runs late the ship will stay in port until all the tours are back. Cruisers can save some money by booking independent tours but they lose that piece of mind. They are adults and can make those decisions for themselves.

Please support this revision to Measure 2. It could mean the failure of my business if it's not passed.

Sincerely,

Fred Drake - Owner
Snorkel Alaska



Experience Alaska Tours

P.O. Box 23343
Ketchikan, Alaska 99901
Phone: 888-320-9049
E-mail: info@lumberjacksports.com
www.lumberjacksports.com

Dear Representative Holmes,

I am writing to encourage support for House Bill 217 presented Representative Lindsey Holmes. While this bill does not address all of the problems with the constitutional and discriminatory language found in Measure 2, it does give some relief to local businesses that have been egregiously harmed

The area of Measure 2 that HB217 addresses is an attack on our rights as American/Alaskan businessmen to conduct standard wholesale contract negotiations that have historically stood the test of time. Nowhere in the United States of America can this type of legislation be found, it attacks the foundations of the free market principles our founding fathers themselves conducted business under and by. To force a small defined group of businesses to be subject to such a discriminatory law is unjust. If this law was to cover all retailer/wholesaler relationships in all of Alaska then my words would be self serving. My request for your support is based on what is a right of freedom, a freedom for each business to choose a business plan and strategy, and then compete in the open market. There are tough decisions to be made if you choose to be an Independent or Wholesaler, but the choice remains up to the businessmen and their ability to succeed

Measure 2 clearly has language designed to hurt the cruiselines at the cost of local businessmen, HB217 is an honest opportunity to correct this wrong

Thank you for your support

Sincerely,

A handwritten signature in cursive script that reads "Rob Scheer".

Rob Scheer



The Legend Lives On!

Dear Representative Holmes,

I am writing to encourage support for House Bill 217 presented Representative Lindsey Holmes. While this bill does not address all of the problems with the constitutional and discriminatory language found in Measure 2, it does give some relief to local businesses that have been egregiously harmed

The area of Measure 2 that HB217 addresses is an attack on our rights as American/Alaskan businessmen to conduct standard wholesale contract negotiations that have historically stood the test of time. Nowhere in the United States of America can this type of legislation be found, it attacks the foundations of the free market principles our founding fathers themselves conducted business under and by. To force a small defined group of businesses to be subject to such a discriminatory law is unjust. If this law was to cover all retailer/wholesaler relationships in all of Alaska then my words would be self serving. My request for your support is based on what is a right of freedom, a freedom for each business to choose a business plan and strategy, and then compete in the open market. There are tough decisions to be made if you choose to be an Independent or Wholesaler, but the choice remains up to the businessmen and there ability to succeed

Measure 2 clearly has language designed to hurt the cruiselines at the cost of local businessmen, HB217 is an honest opportunity to correct this wrong.

Thank you for your support

Sincerely,

Rob Scheer



March 24, 2007

Representative Lindsey Holmes
State of Alaska
State Capitol #405
Juneau, AK 99801

Dear Representative Holmes,

This business was organized in 2003, based on research that identified growing visitor interest in experiencing Alaska rain forest and wildlife in a natural setting. Before investing in the 40 acres of mostly forested land that we developed, the concept for Alaska Rainforest Sanctuary was presented to the major cruise lines. It was only after receiving their commitments to sell our product that we invested over \$2 million in property acquisition, forest trail building, elevated boardwalks, construction of a forest/wildlife interpretive center, support facilities, and the restoration of a historic sawmill situated on part of our property.

Since opening the sanctuary in 2004, we have hosted tens of thousands of cruise ship passengers. Based on comment cards that we get back, our operation is producing very satisfied guests. Last season we provided employment for 43 persons.

None of this would have been economically feasible without the promotion and advance bookings provided by the cruise lines. This is now threatened by AS 45.50.474. We know that sales will be seriously impacted if there is no relief from the "onboard disclosures and display" provision of this statute.

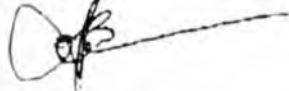
116 Wood Road, Ketchikan, Alaska 99901 Phone: 907-225-5500

-2-

This provision of the statute is discriminatory and harmful to the large number of established Alaska businesses serving the shore excursion needs of cruise ship passengers. No such disclosures are required of any other class of Alaska businesses.

We appreciate your involvement with House Bill #217 and urge the Legislature to pass this much needed amendment to the statute.

Sincerely,



Len Laurance
Marketing Director

Copy: Rep. Kyle Johansen
Rep. Peggy Wilson
Rep. Bill Thomas
Sen. Bert Stedman
Sen. Kim Elton
Sen. Albert Kookesh

Chilkat River Adventures, Inc. (River Adventures)

P.O. Box 556
Haines, Ak. 99827

Phone: 800-478-9827

Fax: (907) 766-2051

Karen's Cell: 314-0037

E-mail: riveradventures@aptalaska.net

Dear Representative Coghill,

My husband and I own and operate a tour company in Haines, and have been in business since 1991. We started out with one boat and sold our tour to independents that visited our community. Each year from 1991 through 1993 my husband had to go to the North Slope, or go to logging camps to find work in the winter. I worked one winter in Juneau at a temporary State job because there was little or no work available in Haines. We did this because we were not making enough money in the summer season to sustain us through the winter months. By 1994 we realized that we would not be able to continue our business if we did not expand and try to get sold on board the cruise ships that were coming to our area, simply, we just needed more volume. We were fortunate enough to get a Rural Development Loan, expand our business and get picked up by the cruise lines.

Our company takes visitor's into the wilderness by jet boat and they come back with a better understanding of the Alaskan wilderness and a greater appreciation for Alaskan residents and our lifestyles. We love what we do and appreciate people who spend their hard earned money to come to Alaska as visitor's.

This past October the voters passed Ballot Measure 2, an Initiative that is commonly referred to as the Cruise Ship Head Tax. There is a part of the Initiative that directly affects us, which is the disclosure statement. If this disclosure statement doesn't get amended, it will force the cruise lines to tell their customer what the percentage of mark up is on every excursion tour sold on board, both orally and in writing. This will give that person private information about my tour pricing, just by doing simple math.

We wholesale our product to the cruise line. This is a totally different price than I sell to the independent traveler. The cruise line mark up my wholesale price so that they can pay for operating costs for the shore excursion department, advertising and other costs associated with shore excursions. With the cruise line marketing the cruises and our shore excursions, they can reach a much larger volume of people than I could ever reach, if I were to do my own marketing. For this reason alone, I am more than happy to allow them to keep a percentage of the on board sale price of my tour. What I am very uncomfortable with is the fact that they may be forced to disclose the percentage of mark up for all to see, including my competitor. This information will be readily available for anyone to obtain.

A law that requires any business to disclose the markup of a wholesale product is not only ridiculous but unreasonable and goes against the very foundation of free enterprise. There are no other businesses that I know of that buys wholesale products and then is required to "disclose both orally and in writing" the percentage that they have marked the product up and they must put the written notice in 14 point typeface and contrasting color.

I believe that when the people passed this initiative that they did not fully understand, nor did some of them even read it in its entirety. People have admitted to me that they didn't even know about the disclosure statement that was in this initiative. They just saw it as a tax on cruise ship passengers. Once again, tax them or tax me, which would you choose?

I encourage you to support HB217 to protect businesses like ours and ask you to defend free enterprise by righting the wrong that has been done by this injustice.

How far can the Legislature go in amending an Initiative? I have included my rationale in favor of amending this Initiative.

The Supreme Court has cited three factors in determining how far the Legislature can go:

1. **The scope of the subject matter.** "[T]he broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative." This Initiative was extremely broad and very far reaching which should allow more latitude in amending it.
2. **The general purpose.** A court "must consider whether the general purpose of the legislation is the same as the general purpose of the initiative." I believe that the general purpose rule applies in HB217. It is even more beneficial to the customer because it gives them clear direction for alternative tours should they decide to not purchase the tour on board, and it provides the customer with the contact information of the shore excursion so they can easily make their own arrangements.
3. **Similar means.** Courts will consider the degree to which "the means by which that [common] purpose is effectuated are the same in both the legislation and the initiative." But the means adopted need *not* be identical; they simply must "address[] the subject matter in similar ways." Courts will consider whether a change in the means "vitrates[] the aims of the initiative" or instead "ma[kes] those aims more feasible of achievement." I believe that HB217 achieves this goal as well. It addresses the subject matter in similar ways by stating that the shore excursions are a paid promotion and alternative tours may be found ashore in each port of call.

Thank you for your time and consideration and I sincerely hope that you will support HB 217.

Karen M. Hess / V.P.



March 24, 2007

Representative Lindsey Holmes
State of Alaska
State Capitol #405
Juneau, AK 99801

Dear Representative Holmes,

No where else in the world is it mandated by government that the wholesale cost or net price of a service be disclosed and displayed aboard cruise ships. And of course no other type of business in Alaska is required to reveal the mark-up or base cost of a service or commodity, except those providing shore excursions to cruise lines.

Taquan Air has invested heavily in purchasing and completely rebuilding seven DeHavilland Beaver floatplanes, including an FAA approved modification to provide larger windows and more spacious seating, sound cancelling headsets, and state of the art Capstone cockpit technology. We are a certified participant in the pioneering Medallion Foundation air safety program and provide the highest insurance coverage in the industry.

This is what it takes to qualify to be sold aboard cruise ships. Passengers are offered high quality excursions, which reflects well on the ports of call and the state. Displaying both the net cost and selling price of excursions aboard ship will drive business ashore to vendors who do not have to meet the same standards.

This will be disruptive to commerce, confusing to passengers, and create a negative image for the state.

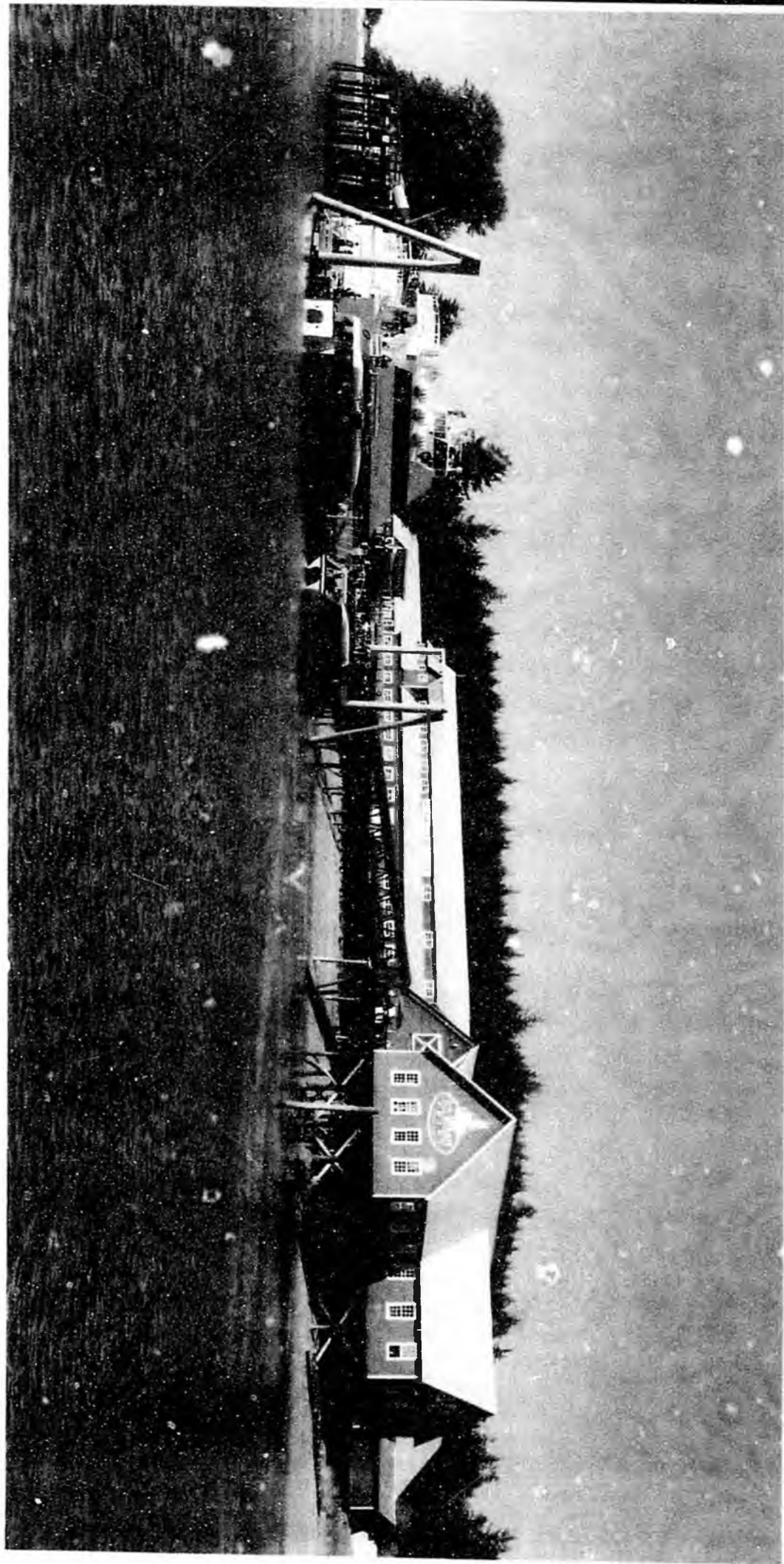
Thank you for sponsoring HB217, which will go a long way to solving the problem. The ultimate solution would be to eliminate the disclosure and display provisions of AS 45.50.474 altogether and let commerce be transacted like it is for all other types of businesses.


Sincerely,

A handwritten signature in cursive script that reads "Brian Salazar".

Brien Salazar
President and CEO

Copy: Rep Kyle Johansen
Rep. Peggy Wilson
Rep. Bill Thomas
Sen. Bert Stedman
Sen. Kim Elton
Sen. Albert Kookesh



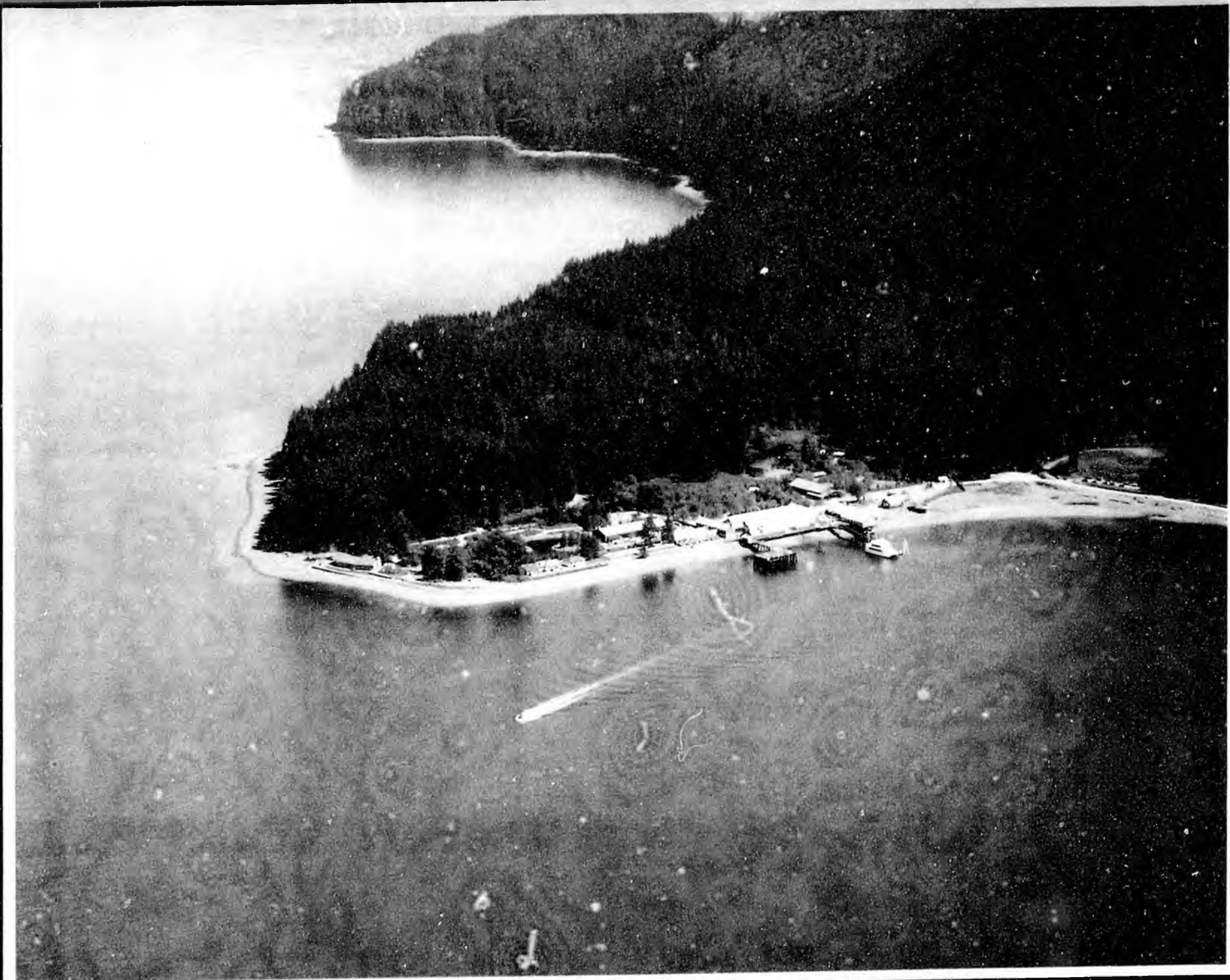


An aerial photograph showing a coastal region. The foreground is dominated by a large, dark, forested area. To the right, a body of water is visible. Handwritten annotations include: 'Hoonah' with an arrow pointing to a small clearing in the forest; '1.5 miles' with an arrow pointing to a distance on the coast; and 'ISP' with a line pointing to a small settlement or industrial site. The top of the image shows the underside of an aircraft wing.

Hoonah →

1.5 miles
←

ISP





March 24, 2007

Representative Lindsey Holmes
State of Alaska
State Capitol #405
Juneau, AK 99801

Dear Representative Holmes,

I am a life long Alaskan who joined with two other Ketchikan residents in 2005 to introduce the first zip line or canopy course to the state. It was after experiencing similar activities in other countries that we felt this would be attractive to Alaska cruise passengers. The cruise lines agreed to support the enterprise, so we accelerated our development plan and opened a zip line course in Ketchikan that same year.

With high demand and satisfaction levels, we developed a second zip line course in Juneau for 2006. This has also proven very popular. Last year we hosted thousands of cruise passengers at our Ketchikan and Juneau facilities and employed 80 persons. Guests experience the rain forest from a different perspective and are exhilarated by the challenge.

The disclosure requirements of AS 45.50.474 (b) will have a negative impact on our business and could threaten it's the economic viability. HB 217 will minimize the negative effect of the current statute. Thank you for introducing this bill. We urge the Legislature to pass this healing legislation.

Sincerely,

A handwritten signature in cursive script that reads "Kris Singstad".

Kris Singstad
General Manager & Vice President

Copy: Rep. Kyle Johansen
Rep. Peggy Wilson
Rep. Bill Thomas

Sen. Bert Stedman
Sen. Kim Elton
Sen. Albert Kookesh

P.O. Box 5425, Ketchikan, Alaska 99901 Phone: 907-247-5503

Alaska Canopy Adventures
406 S Franklin St #210
Juneau, AK 99801
Tel: 907-523-2920
Fax: 907-523-4820
www.alaskacanopyadventures.com



Dear Representative,

We ask you to please support HB 217 and the Alaska Travel Industry. By supporting this measure you will have an opportunity to protect an industry that has been damaged by an anti-business special interest group that succeeded in deceiving Alaskan residents. Support HB 217 and business in Alaska!

Regards,

Mike Cooney
Alaska Canopy Adventures
mike@alaskacanopyadventures.com



**FOUR
SEASONS
MARINE
SERVICES**

P.O. BOX 211267
AUKU BAY, ALASKA 99821
PHONE: (907) 790-6671
FAX: (907) 790 6672

March 26, 2007

Representative Lindsey Holmes
State Capitol, #405
Juneau, AK 99801

Dear Representative Holmes:

I am writing in support of House Bill 217, which introduces additional wording to the recently passed cruise ship initiative. HB 217 specifically addresses the requirement that cruise lines disclose actual commissions paid by Alaskan vendors of shore excursion products. The intent of the current wording related to commissions is unclear, but if put into practice will have negative consequences for Alaskan tour operators and cause confusion on the part of the visitor.

Four Seasons Tours sells whale watching shore excursion products to a number of cruise ship companies in the port of Juneau. We have invested many years and considerable financial resources to build our business, and our marketing is based on the methods used worldwide to sell products aboard cruise ships. We provide a service both to the cruise lines and the ultimate consumers who enjoy our excursions. The commission margins earned by the cruise companies guarantee a smooth, seamless delivery of these products to the ship's customers, ensure a required level of safety, and pay for advertising and marketing costs. We are able to focus our attention on offering a safe, high quality product without diffusing our efforts and resources on advertising and marketing.

We strongly believe the wording as it stands in the recently adopted initiative is an onerous and punitive requirement. There is no precedent that I am aware of, requiring such disclosures of tourism product margins, anywhere. I don't think it's appropriate or fair to require our company to disclose its net price. Further, I cannot see any benefit to the visitor to have access to that information. We believe that HB 217 offers a better way to provide travelers with tour information for each port rather than simply requiring tour operators to disclose pricing information. Without options, the consequences of required price disclosures will surely compromise tour quality and the overall experience of the Alaska cruise customer. Independent travel agents and wholesalers are not required to publicly disclose commissions, and we see no reason to require it of cruise ship companies who provide the same type of service.

We support the amended wording included in HB 217, and feel that it gives the ultimate consumer (the visitor) information related to the fact that vendors do sell their services to cruise lines for a price lower than retail, and provides access to the local visitor's bureau for further information. We urge your colleagues in the Legislature to support and vote in favor of this bill.

Sincerely,

Carole J. Tallman
Director, Sales & Marketing

cc: Representative Neuman, Economic Dev., Trade and Tourism Committee Chair



**FOUR
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SERVICES**

P.O. BOX 211267
AUKU BAY, ALASKA 99821
PHONE: (907) 790-6671
FAX: (907) 790 6672

March 28, 2007

Representative Lindsey Helmes
State Capitol, #405
Juneau, AK 99801

R.E.: HB 217

Dear Representative Holmes:

Our company, Four Seasons Tours sells whale watching trips to cruise ships in the port of Juneau. We have spent many years and invested a lot of money to build our business, based on the model of marketing methods used worldwide to sell tours aboard cruise ships. The commissions collected by the cruise companies guarantee a smooth, seamless delivery of tours to the ship's customers, and pay for advertising and marketing costs. We can focus our attention on offering a quality tour without spending time and money on advertising and marketing. The Cruise ship companies are then able to guarantee a level of service and availability that is more difficult for a cruise passenger to accomplish with independent purchasing, which adds value for the customer.

The primary purpose of Proposition 2 was to impose a head tax. That is what the media focused on, and the public debates centered around. And it is clear to me in discussion with other voters, that most people were unaware of the implications of the other five sets of requirements in the legislation, in addition to the imposition of a head tax. The other five are unrelated fields of wastewater monitoring, gambling taxes, establishing "ocean rangers", encouraging lawsuits, and commission disclosure to customers. The only common thread is that they were clearly designed to apply more rules and restrictions on cruise ships. Our Alaskan owned company suffers, as a consequence.

The last one of those many unrelated requirements is for ships to disclose the wholesale price of our tour to their end customer on the ship. This is the equivalent of passing a law saying independent tour brokers in any community would have to disclose the wholesale price of tours they sell. I don't think that kind of legislation would ever pass if it were it introduced in the legislature. For one, it's not necessary - why would that be required? Who and what are protected by this? The free market controls prices, that's the way it works in our country. Further, it interferes with our relationship with our retailer, the cruise ship company. In essence, we are penalized with this intrusive requirement for choosing to sell through a cruise ship company, by having our volume pricing levels exposed to competitors.

We support the fix to this problem proposed in HB 217. It provides the intent of informing visitors they are paying commissions on board, and even directs them to alternative sources of tours. We are hopeful you and your colleagues in the Legislature will pass this bill.

Sincerely,

Loren Gerhard

Vice President - Marine Operations

cc: Representative Neuman, Economic Dev., Trade and Tourism Committee Chair

James Waldo

From: Rep. Lindsey Holmes
Sent: Wednesday, March 28, 2007 5:00 PM
To: James Waldo
Subject: FW: Please Support HB217

From: Kerry and Joyce Town [mailto:canalmarine@aptalaska.net]
Sent: Wednesday, March 28, 2007 11:29 AM
To: Rep. Lindsey Holmes
Subject: Please Support HB217

We would like to ask for you to **please support HB217**. This is very important to the survival of our towns and businesses. I feel that this is totally out of hand having a sector of businesses reveal their bottom line price and their profit. The customer (tourist) are not buying our business therefore I don't believe they need to know, or want to know how much everyone is making. They just want to have the experience of a life time. And, that they can come back and do it again.
Thank you for your time.

Kerry and Joyce
Canal Marine and Oceanside RV
Haines Alaska
907-766-2437
www.oceansiderv.com
greatview@oceansiderv.com

James Waldo

From: Rep. Lindsey Holmes
Sent: Wednesday, March 28, 2007 5:00 PM
To: James Waldo
Subject: FW: HB217

From: Vy Zartman [mailto:zartman6@yahoo.com]
Sent: Wednesday, March 28, 2007 11:27 AM
To: Rep. Lindsey Holmes
Cc: zartman6@yahoo.com
Subject: Re:HB217

Vyonne Zartman
P.O. Box 905
Haines, AK 99827
E-mail: zartman6@yahoo.com

Dear Representative Holmes,

This past fall, Ballot Measure 2 was passed, known as the Cruise Ship Head tax. In it, there is a disclosure statement that forces a Tour Business to disclose the amount of commission or percentage of their sale. I disagree with this, what other business has to disclose their wholesale price or mark-up orally and in writing, the grocery stores or the service stations? No, I don't think so. Anyway, I feel this is unfair and should be amended. There should be a choice between the old and new requirement.
I support HB217.

Thank you,

Vyonne Zartman

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Allen Marine Tours
P.O. Box 1049
Sitka, Ak. 99835

Phone: (907) 747-8100
Fax: (907) 747-4819
jdunlap@allenmarine.com

Dear Representative Holmes,

I support my family through my work in the Alaska visitor industry. I am employed as a manager for Allen Marine Tours, based in Sitka. Our company, which has been in business since 1967, operates passenger vessels throughout SE Alaska. During the peak of the operating season our company employs over 200 people; most of them are full-time Alaska residents. Over 90% of our customers come to us as cruiseship visitors. It has taken 37 years of hard work to build the good working relationship we presently have with the cruiseship industry, and without this relationship our business would not exist.

This past October the voters passed Ballot Measure 2, an Initiative commonly referred to as the Cruise Ship Head Tax. There is a part of the Initiative that directly affects us, which is the vendor disclosure statement. If this disclosure statement does not get amended, it will force all cruiselines to inform their customers, both orally and in writing, the amount of commission retained by the seller on every excursion tour sold on board. This unfair *forced* disclosure requirement would enable any person, or any business competitor, to know the wholesale price of Allen Marine's tour programs.

Virtually every business in the United States operates according to the principles of free enterprise, and I can think of no examples where companies are required to disclose their wholesale pricing to their customers and competitors. When I purchase any product in this country I do not expect the business to have any obligation to inform me how much they paid for the product or to disclose how much profit they have built into the retail price. Why should this be expected of my business? To force this on Alaska tour operators – just because they do business with cruiselines – is patently unfair and completely contradicts the principles of free enterprise.

I also feel that Alaskans voters (the few who were actually aware this disclosure statement requirement was tacked onto the Initiative) were misled as to the purpose of this section. The authors of this Initiative claimed the disclosure statement requirement was included for the purpose of informing *unknowing* cruiseline customers that the cruiselines are charging a commission for the tours they sell. Does anyone really believe that a cruiseline selling tours is providing this service for free? I highly doubt it. Everyone who travels knows that any business providing this kind of service – whether it be a travel agent, a tour broker or a cruiseline – is charging a commission for making these arrangements.

Thank you for your time and consideration. I sincerely hope you will defend free enterprise, and help ensure the future viability of good businesses like Allen Marine Tours, through your support of HB 217

Sincerely,

John Dunlap
Vice President
Allen Marine Tours

From: Jim Collins [mailto:jcollins@allenmarine.com]
Sent: Thursday, March 29, 2007 12:16 PM
To: Rep. Lindsey Holmes
Subject: *****SPAM***** In support of HB 217

Allen Marine Tours - Juneau

PO Box 211609
Auke Bay, AK 99821
(907) 789-0081

March 29, 2007

Dear Representative Lindsey Holmes,

I am writing in strong support of House Bill 217 and I urge you to support it as well

Ballot Measure 2 as it is currently written will discriminate against, and harm, every Alaska tour company that operates tour programs advertised and sold aboard cruiseships. The disclosure statement language in this legislation would require the cruiselines to reveal their tour vendor's wholesale pricing strategy to competitors. That pricing knowledge will be utilized to provide a clear business advantage to the companies that are not legally forced to disclose their own wholesale pricing strategy.

Allen Marine is an Alaskan family-owned and operated tourism business. For the past 35 years we have been showing visitors to Alaska everything that is special about the Alaska wilderness and wildlife. To a large extent, everything we have learned about operating this business is self-taught and learned through hands on experience.

Whether or not Ballot Measure 2 was truly meant as a direct attack on the Alaskan tourism companies, we have great concern that this legislation, in its present form will cause irreparable harm to our business.

Myself and the approximately 80 other people who work for Allen Marine here in Juneau hope that you will voice our fear and concern about the intended or unintended effects of Ballot Measure 2.

Sincerely,

Jim Collins
Allen Marine Tours - Juneau
(907) 789-0081 xt 18
jcollins@allenmarine.com

James Waldo

From: Rep. Lindsey Holmes
Sent: Thursday, March 29, 2007 11:49 AM
To: James Waldo
Subject: FW: re HB 217

From: Dot Wilson [mailto:dotw@gci.net]
Sent: Thursday, March 29, 2007 11:14 AM
To: Rep. Lindsey Holmes
Subject: re HB 217

Representative Holmes: This letter supports the changes made to the Cruise Ship Initiative as outlined in HB 217

As a small business owner that does tours in the summer, I would like to tell you that our company does NOT have a contract with the tour ships. Nor have we ever had. It is true that in the early years we had to work hard to build our clientele without aid from the Tour ships. But we have done so successfully.

When we started doing helicopter tours in 1994 our offerings were not sufficiently different from other helicopter companies for the tour ships to add us as a client. We did what all businesses do. We offered service and quality to our customers. For the last several years we have reached out capacity for tours and have not have to worry about the percentages our competitors paid the tour ships.

I realize the initiative language cannot be changed, but I think HB 217 will be fairer than the current initiative. Businesses by nature are competitive and to take away the competitive opportunity hurts the public and the private businesses by interfering with the free enterprise system that has built our country

Dot Wilson
Coastal Helicopters

Cell: 907-321 0288

James Waldo

From: Rep. Lindsey Holmes
Sent: Thursday, March 29, 2007 11:49 AM
To: James Waldo
Subject: FW: HB217

From: Mike Wallisch [mailto:akfish@gci.net]
Sent: Thursday, March 29, 2007 9:28 AM
To: Rep. Jay Ramras; Rep. John Coghill; Rep. Ralph Samuels; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mark Neuman; Rep. Carl Gatto; Rep. Kyle Johansen; Rep. Vic Kohring; Rep. Bob Lynn; Rep. Andrea Doll; Rep. Mike Doogan
Subject: HB217

Dear Representatives,

My wife Sydnie and I have owned and operated a tour company in Sitka since 1993 and have been founding partners in a second tour company in Juneau since 2004. Combined, our companies represent over 35 direct employees or subcontractors who reside in the respective communities.

We encourage you to support HB217. The portion of Ballot Measure 2 that HB217 addresses is a punitive measure directed at one specific segment of the tourism industry. It rode the coat tails of a much broader measure and I doubt that standing on its own, it would have passed a vote. Frankly, I find it hard to believe it could be considered legal. I doubt most voters realized the hidden damage that Ballot Measure 2 held for small business.

Cruise line passengers are not forced to book tours exclusively through the cruise lines nor are they led to believe that the cruise line offerings are their one and only avenue to participate in shore side activities in the towns they visit. Virtually everyone who travels knows there are multiple options in terms of activities and tour providers. All one needs to do is spend 5 minutes on the internet and every available option in any town chosen is presented, cruise line or independent. I think our business is typical of most businesses that work with the cruise lines in that we bid our tour products to the cruise lines on an annual basis. If I am required to publicly disclose my wholesale price structure, I am placed at a disadvantage with my competitors. I can't think of **ANY** example where one segment of private industry is penalized in such a fashion.

I urge you to support HB217.

Thank you for your time,

Mike & Sydnie Wallisch
Alaska Adventures Unltd. & Southeast Sportfishing

James Waldo

From: Rep. Lindsey Holmes
Sent: Thursday, March 29, 2007 11:49 AM
To: James Waldo
Subject: FW: Support HB 217

-----Original Message-----

From: Christy Tengs [mailto:christytengs@hotmail.com]
Sent: Thursday, March 29, 2007 10:14 AM
To: Rep. Lindsey Holmes
Subject: Support HB 217

Dear Representative Holmes:

We own the Pioneer Bar and Bamboo Room Restaurant in Haines, Alaska. We struggle every year to stay open year-round in an economically depressed town. Cruise ship business is crucial to us. Anything that hurts our local tour operators directly affects our bottom line.

Please support HB 217. It is the only palatable alternative to the unjust requirements in Ballot Measure 2.

Thank you very much.

Bob and Christy Fowler

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Allen Marine Tours
Ketchikan Division
50 Front Street, Suite 209
Ketchikan, Alaska 99901
907-225-8100

March 28, 2007

Dear Representative,

I am writing in support of House Bill 217 and I strongly urge you to support it as well.

I am writing to you as a citizen of Ketchikan, and as a member of a community that clearly made its voice heard on Ballot Measure 2 - we said "No". And of the many reasons we said no, the section that is amended by HB 217 was one of the main reasons.

I work for an Alaska family-owned business that not only services cruise ship passengers, we take independent travelers on marine tours; and we offer parts and service to local marine operators; and we build vessels that are used locally and across the nation. Our operations not only support local families and businesses, but we help support a vital economic driver of Southeast Alaska - Tourism.

By instituting this section of Ballot Measure 2 without amendment by HB 217 the government of the state of Alaska will be flying in the face of the building blocks of this nation - Free Enterprise. The definition of Free Enterprise is: Business governed by the laws of supply and demand, not restrained by government interference, regulation or subsidy. In a free market, government intervention in economic matters are limited to regulating against force and fraud among market participants. To require the public disclosure of wholesale rates for a select portion of the business community not only forces them into an economic disadvantage, but also infers a level of "force" or "fraud" within the community. I certainly do not believe that any of my neighbor businesses, nor the sales managers with the cruise lines are forcing or defrauding any of our visitors. And if the government of the state of Alaska feels that it is appropriate to require tour sellers to publish their wholesale rates for services and products to cruise ship passengers, then it would only be equitable for compliance of ALL businesses selling services and products to cruise ship passengers. The t-shirt seller must place a sign above his rack with his wholesale price, the hot-dog kart vendor must make his wholesale price available to the cruise ship passenger, the corner drug store must place a wholesale price tag on the shampoo the cruise ship passenger purchases. This may seem extreme and simplistic, but I am only trying to demonstrate the discriminatory aspect of this portion of the legislation. Anyone who owns and/or operates a business understands the damage this piece of legislation can do to a companies ability to conduct fair business.

Most of us in the hospitality and tourism industry do our jobs because we love to share the uniqueness and beauty of our home town and home state with visitors from far and near. Rather than create more barriers to the enjoyment of Alaska, let's work together to continue to make Alaska a great place to visit and to do business.

I would like to recognize and thank Representative Holmes for sponsoring this legislation. On behalf of the approximately 30 people who work here at Allen Marine Tours in Ketchikan, I urge you to support HB 217.

Sincerely,
Laurie Booyse
Allen Marine Tours Ketchikan



ORSO

Brews Brothers, LLC
737 West 5th Ave.
Anchorage, AK 99501
Phone (907) 777-3761 Fax (907) 792-3740

April 3, 2007

Representative Holmes,

This week the House Economic Development, Trade and Tourism Committee will consider HB217, the commission disclosure bill. I would very much appreciate you giving support to HB217 in this committee. As it is written, the ballot initiative poses a significant threat to Alaskan businesses that work in tourism and with the cruise lines. The required disclosure exposes the price structures of these local businesses, which could lead to unfair price undercutting, with all Alaskan tourism businesses suffering as a result.

HB 217 offers an alternative that would allow a choice between disclosing commission rates (as under current law), or disclosing that the tours featured onboard a cruise ship pay for on board promotion, and a statement reminding passengers that they are free to book alternative tours on their own along with information to help them do so. This legislation does not have a financial impact on the state's budget.

Please note the following organizations resolved to oppose this disclosure provision on Alaska businesses:

Alaska State Chamber of Commerce
Anchorage Assembly
Anchorage Chamber of Commerce
Anchorage Convention and Visitors Bureau
Anchorage Downtown Partnership
Alaska Travel Industry Association

Representative Holmes as this is an important issue to the visitor industry and many small Alaskan owned and operated businesses statewide. I hope you will be supportive of moving this legislation forward.

Please feel free to call me if you have any questions or comments.

Sincerely,

Chris Anderson
Brews Brothers, LLC dba Glacier BrewHouse & ORSO



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P.O. BOX 211267
SIKOTIA BAY, ALASKA 99821
PHONE: (907) 790-6671
FAX: (907) 790-6672

March 28, 2007

Representative Lindsey Holmes
State Capitol, #405
Juneau, AK 99801

R.E.: HB 217

Dear Representative Holmes:

Our company, Four Seasons Tours sells whale watching trips to cruise ships in the port of Juneau. We have spent many years and invested a lot of money to build our business, based on the model of marketing methods used worldwide to sell tours aboard cruise ships. The commissions collected by the cruise companies guarantee a smooth, seamless delivery of tours to the ship's customers, and pay for advertising and marketing costs. We can focus our attention on offering a quality tour without spending time and money on advertising and marketing. The Cruise ship companies are then able to guarantee a level of service and availability that is more difficult for a cruise passenger to accomplish with independent purchasing, which adds value for the customer.

The primary purpose of Proposition 2 was to impose a head tax. That is what the media focused on, and the public debates centered around. And it is clear to me in discussion with other voters, that most people were unaware of the implications of the other five sets of requirements in the legislation, in addition to the imposition of a head tax. The other five are unrelated fields of wastewater monitoring, gambling taxes, establishing "ocean rangers", encouraging lawsuits, and commission disclosure to customers. The only common thread is that they were clearly designed to apply more rules and restrictions on cruise ships. Our Alaskan owned company suffers, as a consequence.

The last one of those many unrelated requirements is for ships to disclose the wholesale price of our tour to their end customer on the ship. This is the equivalent of passing a law saying independent tour brokers in any community would have to disclose the wholesale price of tours they sell. I don't think that kind of legislation would ever pass if it were it introduced in the legislature. For one, it's not necessary - why would that be required? Who and what are protected by this? The free market controls prices, that's the way it works in our country. Further, it interferes with our relationship with our retailer, the cruise ship company. In essence, we are penalized with this intrusive requirement for choosing to sell through a cruise ship company, by having our volume pricing levels exposed to competitors.

We support the fix to this problem proposed in HB 217. It provides the intent of informing visitors they are paying commissions on board, and even directs them to alternative sources of tours. We are hopeful you and your colleagues in the Legislature will pass this bill.

Sincerely,

Loren Gerhard

Vice President - Marine Operations

cc: Representative Neuman, Economic Dev., Trade and Tourism Committee Chair

March 29, 2007

State Representative Lindsey Holmes
State Capitol, #405
Juneau, AK 99801

Dear Ms. Holmes:

It was a pleasure to meet with you in late January and I enjoyed our discussion on tourism related issues and in particular on the impacts of Proposition #2 (Cruise tax). On behalf of the Anchorage Convention & Visitors Bureau (ACVB) and the more than 1,250 member businesses we represent, I am writing this letter in support of HB 217. This bill is imperative to the economic well-being of small businesses in the tourism industry, especially those who do business with the cruise lines.

The majority of ACVB's members are small business owners. The disclosure section of Ballot Measure 2 poses a significant threat to Alaska tour operators that contract with the cruise industry. HB 217 can help change the negative impact by offering an alternative that will promote competition between businesses.

Thank you for your work on this bill and your efforts to assist small business owners throughout the state of Alaska.

Sincerely,



Bruce Bustamante
President & CEO

907-245-0912 (phone)
907-245-0400 (fax)

Hm address:
2412 Fantail Circle
Anchorage, AK 99515
907-349-8698



A.J. JUNEAU DOCK, LLC.

P.O. BOX 8084, KETCHIKAN, AK 99901 • PHONE: (907) 225-0999 • FAX: (907) 247-6042
STREET ADDRESS: 1110 JACOBSEN DRIVE, JUNEAU, ALASKA 99801

Honorable Representative Lindsey Holmes
State Capitol, Room 405
Juneau, AK 99801-1182
907-465-4919

Honorable Representative Andrea Doll
Alaska State Capitol, Room 426
Juneau, AK 99801
907-465-3744

Honorable Representative Beth Keittula
State Capitol, Room 404
Juneau, AK 99801-1182
907-465-4766

DATE: April 2nd, 2007
RE: Support of HB 217

Dear House Economic Development, Trade and Tourism Committee

The AJ Dock in Juneau, Alaska is the newest cruise ship dock in Juneau. The dock is privately owned and sees 250,000+ cruise ship passengers per season. The AJ Dock does not sell tours nor does it conduct tours but the cruise ship initiative will still negatively impact dock operations.

Perhaps this is yet another unforeseen consequence of the initiative but there are no "independent" operators selling tours at the AJ Dock. ALL tours from the AJ Dock are previously sold on-board thus every passenger sees the disclosure addressed in HB 217.

We feel that the disclosure requirement places our dock at a competitive disadvantage with the publicly owned city docks also in the port of Juneau. The publicly owned docks offer independent tour sales on shore which do not need to disclose proprietary information. The option of a cruise ship to call a privately owned facility without these sales is a huge competitive advantage over an open access public facility which does not provide this controlled environment. In addition to the harm caused to local vendors that benefit from use of our facility, this initiative has diminished our competitive edge since all tour vendors who pre-sell on board ships that call our facility must disclose proprietary information.

In support of local tour operators and other related Alaskan businesses such as the AJ Juneau Dock LLC please move forward HB 217. Please support changes to the disclosure provision of the Cruise Ship Ballot Measure so that Alaska businesses are not impacted negatively by this section of the initiative.

Best regards,

Drew Green
Dock Manager
AJ Juneau Dock LLC
1110 Jacobsen Drive
Juneau, Alaska 99801
586-1282

James Waldo

From: Jack Cadigan [ceco@alaska.com]
Sent: Saturday, March 31, 2007 10:43 AM
To: Rep. Lindsey Holmes
Subject: HB 217

Re: HB-217

Dear Representative Gatto

As a resident of Alaska for over 40 years, and long-time local businessman, I strongly urge your support of HB 217.

Our family partnership, Cadigan Enterprises, operates a whale-watch/charter fishing 12 passenger inspected vessel, along with several retail businesses. We work within a cooperative known as the Professional Mariners Group. Naturally, any of our tours sold via cruise ships, Travel Agents in the lower 48, or shore-side agents or brokers are all sold including commissions for the agents. These agents are both our advertisers and sales representatives. The amounts and percentage of the sale that these entities are paid varies, of course, just as in TV or print media advertising the rates vary greatly depending on the target market.

I do not believe that ANY Alaskan business of ANY type should be forced to PUBLICLY divulge how much it pays for ANYTHING, including advertising or off-site agent commissions, fees, and expenses as required by the Head Tax initiative.

I particularly reject the selectivity of a law that would single out only those businesses advertising and/or selling their products aboard cruise for divulging costs of such advertising and/or agent sales.

Furthermore, IF such detailed disclosure of gross commission is required, then concomitant disclosure of the agent's (cruise-ships) expenses should also be permitted. In this manner cruise ship passengers would be made aware of the fact that the net profit accruing to the cruise lines is not the same as the total commission paid.

I therefore most strongly urge your support of HB-217.

Very respectfully,

Jack Cadigan
Captain, U.S. Coast Guard (Retired)
General Partner, Cadigan Enterprises
(dba Adventures in Alaska, House of Russia, Norwesterly, Waterwheel Plaza)

James Waldo

From: Stan [stan@stephencruises.com]
Sent: Saturday, March 31, 2007 1:33 PM
To: Rep. Lindsey Holmes
Subject: HB 217

Dear Representative Holmes:

Thanks for putting forward an alternate plan on the section of the cruise ship ballot that deals with disclosure. HB 217 addresses important concerns Alaskan small businesses have about the disclosure section of the Cruise Ship Ballot Initiative. HB 217 corrects a serious flaw that poses a significant threat to Alaskan businesses that deal with the Cruise Ship Industry, which if not corrected could lead to unfair price undercutting, which could end up effecting all Alaskan tourism businesses.

My business, (Stan Stephens Cruises and Wildlife Trips), feels the existing Cruise Ship Ballot Initiative sets a precedent with the disclosure section that could end up effecting all Alaskan businesses. My business should not have to disclose its pricing structure to anyone.

I hope the legislature will pass HB 217 for it does address important concerns Alaskan small businesses have about the disclosure section of the Cruise Ship Ballot Initiative. Stan

James Waldo

From: Kelli Dindinger [KDindinger@bestofalaskatravel.com]
Sent: Friday, March 30, 2007 9:09 AM
To: Rep. Lindsey Holmes
Cc: 'Ron Peck'
Subject: *****SPAM***** HB217

Representative,

HB217 is extremely important to our business. The impacts of the commission disclosure requirement that has recently become law concern r.i.e. It doesn't make sense that wholesale rates are disclosed to the consumer. I can't think of any other industry where this is required. No businesses would want their competitors to know how much they charge for a service. This will make it really hard for the little guy to survive, when the big guys could potentially just buy the business by cutting their prices below a profitable amount long enough to put the little guy out of business. That is not good for our economy.

Then there is the issue of having to print the rates in 14pt. font of differing colors. There are good reasons why I charge different prices for the different cruise lines. Some include transportation, while others don't, some buy more of my tours than others, some buy more volume than others, some require extra services. This law would require me to have to print a different brochure for each ship (instead of what we do now which is to print one brochure without pricing information). That will be very expensive and will lock me into the rates. We wouldn't be able to do specials or shoulder season pricing.

Thank you for supporting HB217! This is our chance to mitigate some of the damage that this new law will cause

Sincerely,

Kelli

Kelli Dindinger
President
Alaska Travel Adventures
9085 Glacier Highway Suite 301
Juneau, Alaska 99801
kdindinger@bestofalaskatravel.com
www.bestofalaskatravel.com
main: 907-789-0052
fax 907-789-1749
cell: 907-632-8895

James Waldo

From: Chilkoot Lake Tours [chilkoottours@aptalaska.net]
Sent: Thursday, March 29, 2007 11:11 PM
To: Rep. Lindsey Holmes
Subject: HB217

Chilkoot Lake Tours
PO Box 250
Haines, Alaska 99827
(907) 766-3779

e-mail: chilkoottours@aptalaska.net

Dear Representative Holmes,

I am a tour operator here in Haines, Alaska. Our company, Chilkoot Lake Tours has been working with the cruise lines since 1991 as a sold aboard tour.

Last fall when Ballot Measure 2 was passed it also included a part that directly affects my business. If left as written I will have to reprint all promotional material to include my wholesale cost for the public and competitors to see. This is the only time I know of that a business is going to be *required* to post their wholesale cost in order to continue to do business. In addition it has to be printed in 14 point typeface and contrasting color, drawing attention to my pricing and the ships commission added to it. This would seem to be very contentious to cruise passengers, there is no way they are going to miss the breakdown of wholesale cost and commissions when it is so obviously targeted.

The cruise lines market my tour and do all the booking and selling for which they are certainly entitled to a markup. Will all travel agents now be forced to do the same and show what they collect as commission on all their sales? Where will this stop? Buying wholesale, adding a markup is the basis of free enterprise, the customer either likes the price and makes the purchase or doesn't.

Thanks for your time and consideration in this matter, I urge you to support HB217 to allow Alaskans to continue to do business on a level playing field.

Sincerely,

Janis Horton
Chilkoot Lake Tours

James Waldo

From: Anna Neidig [aneidig@alaskatia.org]
Sent: Thursday, March 29, 2007 4:30 PM
To: Rep. Lindsey Holmes
Subject: HB217 - Constituent Comment

Hi Lindsey,

I moved back to the Turnagain neighborhood recently and it's great to see you in this civic role! Thank you for taking on the challenge of leadership in Juneau, and thank you for sponsoring this bill.

Thank you also for supporting ATIA's efforts to increase state funding for tourism marketing (especially marketing dollars targeted to independent travelers).

Most importantly, the travel industry returns net revenue to State coffers and it is a clean, renewable industry. With further investment in this industry we can continue to fund needs throughout Alaskan communities. On the softer side, but also noteworthy: people in the travel industry are happy individuals living a lifestyle they love. The travel industry is good for Alaska and Alaskans on many levels.

My role as a current ATIA employee puts me on the front line talking to business owners across Alaska on a daily basis. I hear time and again from business owners (both members and non-members of ATIA) that they see a direct correlation between our marketing budget and the appetite of visitors to make the long (and expensive) trip to Alaska. I hear this message from a wide variety of small to large business, in all reaches of the state

I also work daily with our members reviewing the quality business leads they receive from ATIA programs, and I see how excited they are to reap the benefits of ATIA's efforts. I also see ATIA, its very active board of directors and a surprisingly large number of active committee participants squeezing every dollar in our budget to maximize ATIA's return on investment.

I am proud to work for an organization that works hard and produces results. Thank you, again, for supporting the issues that are important to our members.

Anna (Garretson) Neidig

Membership & Advertising Sales Manager
Alaska Travel Industry Association (AlaskaTIA)
2600 Cordova Street, Suite 201 Anchorage, AK 99503
Phone (907) 646-3304 - Fax (907) 561-5727
www.alaskatia.org / www.travelalaska.com

3/30/2007

James Waldo

From: C.D. McCurry [cdmccurry@ahtna-inc.com]
Sent: Thursday, March 29, 2007 4:22 PM
To: Rep. Lindsey Holmes
Subject: HB 217

Dear Rep. Holmes

My wife and I are in the tourism business and we support your effort to protect our small business from operating disclosures that could cause our competition to gain an unfair advantage.

Thank you for your time and for the bill you submitted.

Sincerely,

C.D. & Kathleen McCurry
Copper Moose B&B
Copper Center, Alaska 99573
Phone 907-822-4244

3/30/2007

James Waldo

From: Scott Laird [Scott.Laird@ustravel.us]
Sent: Thursday, March 29, 2007 4:14 PM
To: Rep. Lindsey Holmes
Subject: HB217

Dear Lindsey,

I have received information on your sponsorship of HB 217 offering an alternative that would allow tour companies to provide a statement saying they are paid commission by the cruise lines for promoting their product

I think it is a compromise in passenger safety to do either. Encouraging or even suggesting passengers book excursions that are not regulated and examined by the cruise companies puts passengers in harms way by going on their own when making their booking choices. Last minute bookings do not give passengers enough time to do research regarding the safety records of the operators they book with; this is research the cruise line has already done for them.

However, I agree with the provisions put forth in HB217, allowing a less invasive channel for allowing tour operators and cruise lines to comply with the law, advising passengers they receive commissions for the promotion of their products onboard.

I am writing to express my support for HB 217, and wish the best of luck in ensuring it's speedy passage.

Best Regards,
Scott Laird
USTRavel Leisure Agent
907-786-0196 Direct
Tuesday - Saturday 9AM - 6PM
USTRavel Main Hours Monday - Tuesday 9AM - 6PM
Real People Caring About Your Total Travel Experience

Ask me about a Pleasant Holiday in Tahiti.

3/30/2007

James Waldo

From: Shirley Laird [slaird@alaskatia.org]
Sent: Thursday, March 29, 2007 4:06 PM
To: Rep. Lindsey Holmes
Subject: HB 217

Hi Lindsey,
I am Shirley Laird, Director of Finance for Alaska Travel Industry Association and I am in your district.

I truly support HB 217 as an alternative to the disclosure section of the Cruise Ship Ballot Initiative. The disclosure requirements under the Cruise Ship Initiative are wrong. The small tourism industry businesses should not have to disclose this proprietary information or be burdened with complicated reporting requirements. Competition is tough enough without adding this impediment.

Way to go West High Grad!
Shirley

Shirley J. Laird
Alaska Travel Industry Association
Director of Finance
907-646-3313
slaird@alaskatia.org

James Waldo

From: Tory Korn [tkorn@capefoxtours.com]
Sent: Thursday, March 29, 2007 3:50 PM
To: Rep. Lindsey Holmes
Subject: HB 217

Dear Rep. Holmes:

My name is Tory Korn. I am the General Manager for Cape Fox Tours in Ketchikan. I have been a year round resident in Ketchikan for six years now, but have been in Alaska on and off for ten years. I am writing to support you in your efforts with HB 217. The disclosure of our pricing practices is a serious threat to our ability to effectively compete in an already difficult shore excursion market. Our particular tours rely on high volume numbers to offer the pricing we do too the cruise lines. What we receive back from them is invaluable in regards to the marketing and sales efforts onboard. In addition to that, I feel that it is just plain wrong to have too disclose our pricing to anyone except those we choose to do business with. Thank you for your efforts and please let me know if I can do anything to help you in your efforts.

Kind Regards,

Tory Korn
General Manager
Cape Fox Tours
Phone: 907-225-4846x104
Email: tkorn@capefoxtours.com

3/30/2007

James Waldo

From: Christman, Kari [kchristm@erahelicopters.com]
Sent: Thursday, March 29, 2007 3:58 PM
To: Rep. Lindsey Holmes
Subject: Support of HB 217

Ms. Holmes,

My name is Kari Christman and I currently live in Wasilla. I've been a resident of Alaska for 10 years and have worked for Era Helicopters all of those 10 years. The tourism industry is extremely important to me as well as my family. The money that I make through tourism is what provides my family with food on the table and a roof over their head. I support HB 217 because I don't believe that my company or any other company that works with the cruise lines should have to disclose their pricing structure. It's ridiculous to think that a bill could pass that goes against what owning/operating a business is all about.

Kari Christman

Flightseeing Sales & Marketing Manager
Era Helicopters, LLC
Direct 907.266.8450
Toll Free 1.800.843.1947
Fax 907.266.8349
email: kchristman@erahelicopters.com

James Waldo

From: Steve Silverstein [SILVERSTEINS@akrr.com]
Sent: Thursday, March 29, 2007 3:41 PM
To: Rep. Lindsey Holmes
Subject: HB 217

Lindsey:

On a personal level, I appreciate your work on 217. Wendy Lindskoog, of course, speaks for the corporation, but I see it as positive for the industry.

You have been doing a lot of good work in Juneau and I appreciate it.

Best regards,
Steve

Allen Marine Tours

Sitka Division

PO Box 1049

Sitka AK 99835

747-8100

gcushing@allenmarine.com

March 28, 2007

Dear Representative Holmes,

I am writing concerning the passage of Ballot Measure 2, the Cruise Ship Head Tax. Contained in that measure is a requirement that forces cruise lines to disclose the rate of commission received on sales of shore excursions aboard their vessels. I strongly oppose the inclusion of this requirement.

I am a lifelong 50-year resident of Sitka. I began commercial fishing as a teenager and continue in that industry on a spare-time basis. I owned and operated a charter fishing business for 15 years during that time as well. For the past 8 seasons I have been a captain and most recently a manager for Allen Marine Tours.

In my years I have not seen a regulation or requirement that flies more squarely in the face of free enterprise than this one.

I have gained a real appreciation for the tremendous amount of work it is to develop and maintain a good working relationship with the various cruise lines coming to our state. Our company provides many thousands of visitors a first-rate, up-close experience to the very best that SE Alaska has to offer. In order to provide that service effectively and efficiently, this finely tuned partnership with the cruise lines needs to exist.

However, if the vendor disclosure requirement is allowed to be applied, everyone, including our competitors, will know our pricing structure. Thus, the very relationship we have worked so hard to develop will actually become our competitive *disadvantage*.

My work in the visitor industry has been and continues to be the mainstay of my family's income. I believe that the disclosure requirement will have a seriously detrimental impact on our company and on my family. On behalf of the approximately 40 people who work here at Allen Marine Tours in Sitka, I urge you to support HB 217.

Sincerely,

Greg Cushing
Allen Marine Tours Sitka
907-747-8100 Ext. 25

James Waldo

From: Jim and Julie Shook [julicandjim@aptalaska.net]
Sent: Thursday, March 29, 2007 1:07 PM
To: Rep. Andrea Doll; Rep. Bob Lynn; Rep. Carl Gatto; Rep. Jay Ramras; Rep. John Coghill; Rep. Kyle Johansen; Rep. Lindsey Holmes; Rep. Max Gruenberg; Rep. Mike Doogan; Rep. Ralph Samuels; Rep. Vic Kohring
Subject: *****SPAM***** HB 217 Support

Dear Representative:

When I heard and later saw the "disclosure" portion of Ballot Measure 2, I was sure that such a blatant and intrusive attack on free enterprise, and the cruise ship and local tour industries (keeping so many communities solvent) would never see the light of day. I was shocked such a thing was actually put before the voters. I was even more shocked when it passed. Many I have spoken to did not understand the ramifications of such a law. How can such a law benefit Alaskans? Does no one in our government see the " Pandora's box" potential of such a law? Should we single out one industry or should we require the same disclosure of doctors, fuel companies, airlines and department stores? Try that and see what happens.

I do not see why the biggest recurring impediment to a healthy economy through tourism seems to be our own government. I do not presently work in the tourism industry, but I know how terribly important it is to my community and I count on you to protect it. While HB 217 does not correct the blunder, it is a step in the right direction. Please support HB 217 and encourage others to do so as well.

Jim Shook

Haines, Alaska

James Waldo

From: Chris von Imhof [vonimhof@alyeskaresort.com]
Sent: Tuesday, April 03, 2007 11:42 AM
To: Rep. Lindsey Holmes
Subject: HB 217,

Dear Representative Holmes,

On behalf of Alyeska Resort I would like to thank you for introducing HB 217 and express our strong support.
Thank you,

Chris von Imhof
--

Chris von Imhof
Vice President/CEO
SEIBU ALASKA, INC.
P.O. Box 249
Girdwood, Alaska 99587

Hotel/Resort (907) 754-1111
Fax (907) 754-2290

<http://www.alyeskaresort.com>

James Waldo

From: JLucas999@aol.com
Sent: Tuesday, April 03, 2007 10:17 AM
To: Rep. Jay Ramras; Rep. John Coghill; Rep. Ralph Samuels; Rep. Max Gruenberg; Rep. Lindsey Holmes; Rep. Mark Neuman; Rep. Carl Gatto; Rep. Kyle Johansen; Rep. Vic Kohring; Rep. Bob Lynn; Rep. Andrea Doll; Rep. Mike Doogan; Rep. Bill Thomas
Subject: Re: HB 217

Dear Representative Ramras

I am writing to urge your support for HB 217. The bill clearly discriminates against businesses such as ours and provides an unfair advantage to our competitors. While it was appears intended as punitive punishment aimed at the cruises lines, the damage will be to the Alaskan businesses and communities that have built and grown their businesses through relationships with those cruise lines.

On behalf of our 45 year-round and 35 seasonal employees, Wings of Alaska and Wings Airways hope that you aide us in protecting our employees and the business we have built over the past 25 years and support this legislation

Sincerely,

John L. Lucas
Chief Financial Officer
Wings Airways
907-789-9863

See what's free at ACL.com.

James Waldo

From: Erickson, Kari (HAL) [KErickson@HollandAmerica.com]
Sent: Tuesday, April 03, 2007 9:49 AM
To: Rep. Lindsey Holmes
Subject: HB 217

Dear Representative Holmes,

I work in the tourism industry in Ketchikan, Alaska and have been an Alaskan resident for 14 years. I began my career in tourism as a seasonal Driver/Guide for Gray Line of Alaska. After graduating from college I was able to move into a full-time year-round position with the company and am currently the Division Manager.

I am in support of HB 217 because it will assist in limiting the negative impacts of an over-broad ballot initiative. It will reduce the amount of proprietary information that vendors doing business with the cruise lines are required to release to consumers and as a result to their competitors. In no other industry is it common practice to disclose net pricing to consumers. A person would never consider walking into a clothing store and asking what the retailer paid for a product to determine whether or not the product is worth the retail rate or not. HB 217 will help to protect businesses from being required to disclose proprietary information while providing consumers with useful information and options.

I appreciate your time and please let me know if you have any questions or require any additional information.

Sincerely,

Kari Erickson
Ketchikan Division Manager
Gray Line of Alaska
152 Fichner Avenue
Ketchikan, AK 99901
907-225-8702 Office
907-617-1713 Cell
kerickson@hollandamerica.com

Representative Holmes:

Its been a while since I sat with you in the living room of my mother-in-law Maryann Rabeau initiating your election bid and stood in the rain the last day of the election primary season on Northern Lights (I was there for Binkley) but it is a pleasure to say hello again and send along some information today in support of changes to the Prop 2 Cruise Ship Initiative as it relates to small business. I was against this part of the original initiative then, and I am against it now. Your effort to look at this is appreciated.

The attached is a letter submitted to the Juneau Empire as printed by them for your information.

If there are other issues you would like to see supported, please let me know.

Mark Miller

Tourism Planner
2600 Cordova Street #201
Anchorage, Alaska 99503
Tel:(907)-646-3310
Fax: (907)-561-5727
www.alaskatla.org

Vote No On Ballot Measure 2

I began working as the State's Tourism Planner several years ago because I wanted to make a difference for tourists and Alaskans. My job is to keep Alaska the place we as Alaskan's all know and love but allow development that can accommodate more tourists.

Why?

Because 85% of the membership of my organization are small businesses that have 5 or less employees, all people that love Alaska and love showing it in a variety of ways that offer scenic beauty, hospitality and adventure. Most of the services they offer are relatively inexpensive, but collectively in a summer they can afford to provide their services and allow a decent living from the income they receive.

Ballot Measure 2, the so-called Cruise Ship Initiative, may seriously hurt those Alaskan's in several ways. First, if they work with a cruise ship company, their business records become public knowledge. Any competitive edge they may have acquired through years of hard work and perseverance will be lost to whoever wants to start a competitive business. I think that's unfair.

Second, the paperwork requirements, special forms, in specific font sizes of specific colors, must be provided to a new cadre of state employees who will track the information provided. Imagine someone requiring you to write your checks for purchases in the grocery left handed, printed on pink checks with purple lettering only? Would you find that a burden? The paperwork requirements of Ballot Measure 2 are similar.

Ballot Measure 2 also requires an "ocean ranger" program placing marine engineers aboard each cruise ship. These rangers will provide redundant information to that already provided and in fact, if you read your voter pamphlet, will end up costing the state over \$2.0 million more than the program can generate in fees.

Will people quit coming for \$50 more? Studies show there could be a 10 percent drop. That means about 100,000 less visitors using the services of all those small business ventures statewide. Each visitor spends on average \$1,200. Cruisers usually come by cruise ship once and fly or drive on return visits 3 more times for visits. Do the math and realize the economic loss. Staggering.

What number of Alaskans could afford a better lifestyle for those millions lost to the economy year after year all because someone wanted to have an additional \$50 for the state? I'd rather see the small businessman benefit from that money and encourage more visitors to come to Alaska than put a new fee into the state general fund.

Additionally, the domino effect through the Alaskan economy could be very painful. To the 30,000 people in the hospitality industry and to all those people they pay for food, groceries and services that may be reduced or not used at all because less money due to fewer visitors, Ballot Measure 2 could be financially devastating.

Please vote no on Ballot Measure 2.

James Waldo

From: Jeremy Gieser [jjeremy@gguiding.com]
Sent: Monday, April 02, 2007 7:37 PM
To: Rep. Lindsey Holmes
Subject: Another HB217 Letter of support

Monday, April 02, 2007

Representative Lindsey Holmes
Alaska State Capitol
Juneau, AK 99801

In Support of HB 217

Dear Representative Holmes,

Here are a few points on why HB 217 is a good thing for Alaskan tour businesses:

- It is unfair to target specific businesses and require them to reveal confidential pricing information. Does every Alaskan tour company have to do this? Without an industry standard this creates an unfair competitive advantage and is contrary to the current Private Market practices for the society in which we live.
- Over 70 Alaskan tour companies have created products that are sold aboard the cruise lines in Southeast Alaska alone. Many of these are small to mid sized businesses (less than 100 employees). House Bill 217 is being introduced to protect local companies like these - it does not protect the cruise lines.
- HB 217 adds language which requires the cruise lines to provide contact information for **local Convention and Visitor's Bureaus**. This is useful information for the consumer as well as a positive for local tour companies both 'sold' and 'not sold' aboard a cruise ship. This additional language supports Ballot Measure Two's intent much better than that of the original language.
- It is acceptable to introduce an addition to a Citizen Initiative as long as it does not constitute a *substantive change*. There is a letter of support from leg legal for the proposed amendment and I would encourage you to look at how HB217 better embraces the original intent of Ballot Measure Two.

I hope you will feel free to contact me with any clarifying questions or concerns.

Yours truly,

Jeremy Gieser

ATIA - Juneau Chapter President

JEREMY@GGUIDING.COM

(907) 586-2666 office

(907) 586-3990 fax

(907) 723-8447 cell



James Waldo

From: Sherry Aitken [smaiken@hotmail.com]
Sent: Monday, April 02, 2007 7:32 PM
To: Rep. Lindsey Holmes
Subject: Fw: HB 217

Dear Ms. Holmes,

Thank you for your efforts on HB 217 to correct the inequities in the original Initiative.

Warm regards,
Sherry Aitken

----- Original Message -----

From: Sherry Aitken
To: Rep. Ralph Samuels@legis.state.ak.us
Sent: Monday, April 02, 2007 9:28 PM
Subject: Re: HB 217

Dear Mr. Samuels,

My name is Sherry Aitken. I was born in Ketchikan and raised in Sitka. I have worked the last six years for a locally-owned and operated wildlife tour company in Sitka. Before that I worked in both the airline industry and the commercial fisher industry in Sitka.

I would urge you to support the changes outlined in H.B. 217. I will not reiterate the many good reasons for this language change as I'm sure you have many letters outlining those excellent arguments. What I would like to do is remind you of what your responsibilities as a representative of this great state encompass.

I have heard comments in the press from some politicians indicating that if the people of this state voted for the original legislation than the legislature should not change it. This could not be more wrong. When you see rules being put into effect that create unintended or perhaps malicious intended results than you have a duty to correct it with legislative action. You were elected to act as a rational representative for the people and to exercise your judgment with integrity.

This initiative could be challenged in the courts but would ultimately be sent back to the legislature to correct or be struck completely down. Why abdicate your duty to act on the people's behalf to the courts? If you do indeed want to honor the voter's wishes than you need to vote for HB 217 to get fair rule-making results for all the citizens of Alaska. I feel sure that my fellow Alaskans did not vote to intrude upon free commerce or unfairly burden local small businesses.

Please vote for HB 217.

Sincerely,
Sherry Aitken

Sherry Aitken
415 Arrowhead St.
Sitka, AK 99835
907.738.3912

April 6, 2007

Dear Legislator:

The Anchorage Chamber of Commerce today reviewed and supports HB217 regarding the disclosure section of Ballot Measure 2: "The Cruise Ship Initiative".

The tourism industry is important to our state's economy and economic well-being. Of the Anchorage Chamber's 1,200 members, more than 75 percent have fewer than 25 full-time, year-round employees. Many members are directly involved in the industry; many more benefit indirectly.

Ballot Measure 2 as written is punitive to Alaska businesses that offer tours to cruise line passengers because it exposes the price structures of these businesses, leading to unfair price undercutting. The ramifications of such legislation may be detrimental to more Alaska businesses.

To that end, the Anchorage Chamber of Commerce Board of Directors believes HB217, that allows a choice between disclosing commission rates (as under current law) or alternative methods provided in the bill is consistent with the intention of Ballot Measure 2, and we encourage you to support HB217.

Please contact us at president@anchoragechamber.org or (907) 677-7109 with any comments or questions.

Sincerely,



William J. Evans
Anchorage Chamber of Commerce
Board Chairman, 2006-07



Stacy Schubert, IOM
Anchorage Chamber of Commerce
President

cc. Representative Lindsey Holmes

April 24, 2007

Representative Jay Ramras
Chair, House Judiciary Committee
State Capitol Room 118
Juneau, Alaska 998 01-1182

Dear Chair Ramras and Members of the Committee,


The Alaska State Chamber of Commerce supports and endorses the efforts to clarify the requirements recently adopted under the cruise ship initiative. The vendor disclosure provision of the cruise ship initiative unfairly penalizes those that benefit most directly from the cruise and visitor industries. HB 217 seeks to rectify the vendor disclosure portion of the passed initiative.


The disclosure provision of the initiative requires Alaska businesses that sell day excursions and products to cruise passengers to reveal their confidential pricing structure. As an Alaska business association, we are concerned with this provision. It is patently unfair in that it requires just one segment of the business community to disclose their proprietary pricing information. No other industry is required to disclose its pricing structure. The provision requiring cruise lines to disclose in big type the commission they earn for selling bus tours, flight-seeing tours and other ground tour packages places these shore-side vendors at a serious competitive disadvantage.

Good business in Alaska should be based on an even playing field for all Alaskan businesses. Under the current passed initiative, some businesses maybe unfairly penalized by providing proprietary business information required under the initiative. The Alaska State Chamber of Commerce lauds the efforts to change this provision of the initiative.

We look forward to a better business climate in Alaska, and we believe HB 217 moves Alaska's businesses in the right direction.

Yours in economic prosperity,


Wayne A. Stevens
President/CEO



Headquarters
217 2nd Street,
Suite 201
Juneau
Alaska 99801
(907) 586-2323
FAX 463-5515

Regional Office
601 W. 5th Ave.
Suite 700
Anchorage
Alaska 99501
(907) 778-2722
FAX 278-6643



OUR VIEW

Vote yes, then fix it

This may be the only way to get cruise industry to pay something

There is something for everyone. Ballot Measure 2, the effort to take on the state's primary election ballot to impose new taxes and fees, state environmental rules and consumer disclosure requirements on the cruise ship industry. And there are problems with almost every one of the provisions.

But the indignation is real. That's why we recommend a yes vote. Then get ready for legislation to fix the problems that we hope later in the next year, Alaska will be left with a workable bar set of laws.

Our fear is that unless Alaska stands up and forces the cruise industry to pay, the cruise industry will not willingly pay. And all the passengers and its almost 1.1 million passengers a year enjoy what is one state. Though they are very good at donating millions of dollars to charities and other non-

ELECTION



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profits, the cruise lines have been equally strong in battling against state and local taxes and fees.

For example, the industry participated in a 2005 economic study, claiming in its campaign material, "The cruise industry pays over \$4 million annually in taxes to local governments in Alaska." No unit of government, however, paid an estimated \$47.4 million in local sales taxes. Passengers paid an estimated \$4.1 million in local hotel taxes. Cruise Lines paid \$1.1 million in fees to develop local ports, essentially reimbursement for costs. That leaves a profit of \$4.5 million the cruise companies actually paid from their own corporate pockets in local property taxes and sales taxes.

That doesn't cut it. Not for an industry that profits from carrying a million passengers to Alaska each year. Without Alaska and all that it offers, there would be no cruises.

The \$4.5 million is less than the state collects in rental car taxes, a significantly smaller industry.

The ballot measure would amend state law to require that cruise lines pay corporate income taxes on their shipboard profits, just like any other business making money in Alaska. The cruise industry would have been subject to income taxes under a 1996 Alaska Supreme Court ruling, but it successfully lobbied the Legislature and governor's office to adopt a law retroactively exempting it from the tax. Also, the initiative's \$4 fee per passenger to pay for on-board state observers to monitor pollution is a good and preventive measure.

Were those the only issues in the ballot measure, this could be an easy yes vote.

The \$4 fee per passenger for the right to come into Alaska might not survive a legal challenge, though a reasonable head tax to cover state and city waterfront and passenger-related expenses is appropriate and legally defensible. And the initiative's provision allowing Juneau and Ketchikan to maintain their own passenger fees on top of

The provision requiring cruise lines to disclose in big type the commission they earn for selling bus tours, flightseeing tours and such seems like piling on in a measure already heavily weighted with revenge against the companies.

ships, those cruise lines in Alaska. One other reason to dislike the initiative is that it leaves only 11 days for the Legislature to amend the provisions. Between legislative amendments and some wise court decisions, we hope Alaska and the cruise lines can end up with a reasonable set of laws before too much damage is done to one of our few growing industries.

It's a awful lot in one ballot measure. Maybe too much and maybe it will cause the industry to threaten cutting back its ships' time in Alaska. It has done just that when it us have refused or even talked about adopting passenger fees. We believe that is the risk of having the industry that Alaskans are tired of being taken for granted.

BOTTOM LINE: Rule! Measure 2 looks like the only way to get the cruise industry's attention.

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 20, 2007

SUBJECT: CSHB 217(JUD) relating to required onboard disclosures
(Work Order No. 25-LS0696\V)

TO: Representative Jay Ramras
Chair of the House Judiciary Committee
Attn: Jane Pierson

FROM:  Theresa Bannister
Legislative Counsel

This memo accompanies a draft of the bill described above. The issues mentioned below are not triggered by the changes you requested for this particular draft.

1. Initiative issue. Although I believe the changes in this bill are better characterized as amendments that would be allowed under art. XI, sec. 6 of the state constitution, please be aware that, because the draft deletes certain requirements of the initiated language, it is still possible that they could be characterized as a repeal of initiative language and prohibited by art. XI, sec. 6.
2. Commerce clause issues. This bill raises an issue under the interstate commerce clause and federal foreign commerce clause in art. I, sec. 8, cl. 3 of the United States Constitution.
3. Foreign affairs issue. This bill raises an issue under the foreign affairs powers (e.g., the making of treaties) given to the president under art. II, sec. 2, cl. 2 of the United States Constitution.

If I may be of further assistance, please advise.

TLB:med
07-259.med

Enclosure

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Sarah Palin, Governor

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-2075

February 26, 2007

The Honorable Bill Stoltze
State House of Representatives
State Capitol, Room 501
Juneau, AK 99801

Re: Amendment of Laws Enacted by Initiati

Dear Representative Stoltze:

During a budget hearing on February 15, 2007, you requested that our office provide you with an analysis on two matters related to voter initiatives. You asked, first, for a summary of the case law on the legislature's authority to amend a law enacted by voter initiative within two years of enactment, and second, for a history of the legislature's amendments to initiatives during those first two years. The reason to examine the legislature's authority to change an initiated law during the first two years that the law is effective is the prohibition in the Alaska Constitution against the repeal of an initiative during those years. Alaska Const., art. XI, sec. 6. This limit on repeal has been interpreted to restrict the legislature's power to amend an initiated law during its first two years even though the Constitution expressly permits amendments to initiated laws at any time.

1. Summary of the case law

The Alaska Supreme Court has addressed the legislature's authority to amend an initiated law in three cases, although it has reviewed the actual exercise of this authority in only one case. The first case in which the Court discussed the subject is *Warren v. Boucher*, 543 P.2d. 731, 737 (Alaska 1975), a case reviewing the legislature's exercise of its authority to void an initiative petition by enacting substantially the same measure in legislation. Alaska Const., art. XI, sec. 4. The power to amend was described as "broad" and "a check or balance against the initiative process." 543 P.2d. at 737.

Representative Bill Stoltze
Re: Amendment of Laws Enacted by Initiative

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The Court speculated that the purpose of the power to amend was

to assure that initiatives which were ill-advised, which might seriously cripple or frustrate the sound workings of government, or which might be impracticable, could be *altered or corrected* rapidly by the legislature. It was obviously intended by the framers that the initiative process should not be permitted to disrupt vital governmental functions or to impose intolerable burdens upon established administrative systems. [*Id.* (emphasis added).]

Two years later, in *Warren v. Thomas*, 568 P.2d 400, 402-03 (Alaska 1977), the Court considered a challenge to the legislature's amendment of laws adopted by initiative. The initiated laws concerned public official financial disclosure, and the legislature amended them soon after they became effective. The amendments moved the deadline for filing financial disclosure reports from February to April of 1975 and excused public officials leaving office from the obligation to file. Although the amended laws differed in many respects from the initiative measure, the Court found that the amendments did not amount to a repeal: "[t]here are considerable language changes, but, these clarify and render the law more precise. The fines for violations of the law have been reduced but the penalties are still significant," and "the amended law still imposes substantial disclosure requirements on public officials and effectuates the intent of the electorate that those in a position of public trust be held to a high standard of financial disclosure." *Id.* at 402. The changes were not found to so vitiate the regulatory scheme "as to constitute its repeal." *Id.* (quoting *Boucher*, 543 P.2d. at 737). Although it upheld the amendments under review in *Thomas*, the Court clearly viewed the prohibition against repeal as a limitation on the legislature's authority to amend an initiative. For an amendment to be authorized during the first two years of an initiative, it must continue to further the intent of the voters.

The third case in which the Court discussed the legislature's power to amend an initiative was *State v. Trust the People*, 113 P.3d 613, 623 (Alaska 2005). That case concerned the legislature's exercise of its power to supplant an initiative measure by passing a substantially similar law, rather than its power to amend after an initiative is enacted by the voters. Although the Court recognized that the power to supplant is somewhat narrower than the power to amend, the Court relied in part upon its earlier decision in *Thomas*. The Court characterized *Thomas* as holding the "amendments to popularly-initiated legislation must still 'effectuate the intent of the electorate,' and an amendment that 'so vitiates an act passed by initiative as to constitute its repeal' is not acceptable." *Id.* at 623 (quoting *Thomas*, 568 P.2d at 403).

In *Trust the People* the Court identified three factors relevant to determining whether a proposed initiative and legislation were substantially the same. Although this

test was developed with regard to the power to supplant, rather than the somewhat broader power to amend, the test may also be helpful in determining whether proposed changes would continue to promote the same goals of the electorate in enacting the initiative. First, the scope of the subject matter is important: "The broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative," *Id.* at 620-21 (quoting *Boucher*, 543 P.2d. at 736), and conversely, "the simpler and more focused a law is, the fewer details that can be adjusted without effecting a fundamental change in the measure's purpose and effect." *Id.* at 621. Second, whether the general purpose of the amended initiative would be the same as the original is important. Clues to the purpose of the initiative can be found in the text of the initiative measure, the ballot summary for the measure, and the arguments published in connection with it, such as the supporters' statement in the voter's pamphlet. *Id.* at 622. Third, the Court examines whether the initiative and proposed legislation employ the same means to accomplish its purpose. The means can be similar, rather than identical, so long as they truly accomplish the goals of the initiative measure. *Id.*

In *Trust the People*, the Court applied the test to determine whether a proposed initiative restricting the governor's power to appoint a temporary United States Senator should be supplanted by legislation retaining that authority temporarily until the results of a special election to fill the vacancy could be certified. The Court found that the scope of the initiative was narrow, filling a vacancy, and that its purpose, to eliminate the governor's appointment power, was significantly different from the purpose of the legislation, which provided for the governor to retain this authority. In addition, the means chosen to fill the vacancy, particularly with regard to the role of the governor, were dissimilar. The Court concluded that the proposed initiative and the legislation were not substantially the same and held that the legislation did not supplant the proposed initiative.

2. History of legislative amendments during the first two years of an initiative measure's enactment

Our research discovered few amendments to initiated laws during the first two years of their enactment. We found two, in addition to the 1974 public official financial disclosure initiative enacted in 1974 and examined in *Thomas*, 568 P.2d 400, that was discussed previously. The legislature adopted a number of amendments to a 1998 initiative on the medical use of marijuana. A copy of 1999 Inf. Op. Att'y Gen. (May 24; 883-99-0037) (providing an analysis of the bill amending the initiated law) is attached for your information.

The legislature also amended the gas line initiative enacted in 2000 by changing the definition of "project." An analysis of that bill is also attached. In addition, various

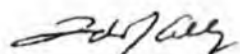
Representative Bill Stoltze
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"housekeeping" amendments to sections enacted by the gas line initiative were made by the 2003 "revisor's bill." CSSB49(STA) (secs. 54, 55, 56, 57 & 58, ch. 35, SLA 2003). These amendments are by definition minor and corrective and do not change the meaning of any law. AS 01.05.031.

If you have additional questions or further assistance is required, please do not hesitate to contact me.

Sincerely,


Talis J. Colberg
Attorney General

Enclosures

cc w/enc: John Bitney, Legislative Liaison, Office of the Governor
AAG D. Behr, Legislation & Regulations, Acting Legislative Liaison,
Office of the Attorney General

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3500
FAX: (907) 465-2075

May 24, 1999

The Honorable Tony Knowles
Governor
P. O. Box 110001
Juneau, AK 99811-0001

Re: HCS CSSSSB 94(FIN) -- Relating to the
Medical Use of Marijuana
A.G. file no: 883-99-0037

Dear Governor Knowles:

At the request of your legislative director, Pat Pourchot, we have reviewed HCS CSSSSB 94(FIN), relating to the medical use of marijuana.

The medical marijuana law enacted by voter initiative in the 1998 general election contained ambiguous language, and as a result contained a large number of provisions that make the law difficult to administer, difficult to enforce, and difficult to interpret. These problems could not have been envisioned by the voters.

The goal of this Administration was to fix the problems in the voter initiative in order to make the law work, that is, to give effect to the intent of the voters to allow marijuana to be used to address debilitating medical conditions under appropriate controls.

In assessing HCS CSSSSB 94(FIN) (hereafter referred to as SB 94), it is helpful to bear in mind that the legislature heard a great deal of testimony about the potency and profitability of marijuana. In addition to consistent police testimony that marijuana grown in Alaska is among the most potent grown anywhere in the world, the legislature took testimony from medical marijuana users. In particular, the House Judiciary Committee heard very compelling testimony from a user who described how, in the last few months, he was able to stop using prescription narcotic pain medications by substituting marijuana. This individual testified that he had been taking an amount of narcotics that would likely kill an ordinary person who had not built up a level of tolerance to the drugs. He also indicated that marijuana of this quality sells for \$500-600 per ounce, which was supported by police testimony that Alaska-grown marijuana often sells for \$4,000-5,000 per pound, or more. Thus the testimony showed that marijuana is a powerful drug capable of producing similar pain-killing effects as narcotics, and creating an enormous profit potential, all of which supported the

legislature's desire that medical use of marijuana remain under appropriate controls and not be subject to abuse.

Legal Standard

Under art. XI, sec. 6, of the Alaska Constitution, a voter initiative cannot be repealed for two years, but may be amended at any time. Alaska case law holds that the legislature has broad authority to "substitute its judgment for that of the proponents of an initiative." *Warren v. Boucher*, 543 P.2d 731, 737 (Alaska 1975). There seems to be a sliding scale analysis, such that "[t]he broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative." Medical use of marijuana is a fairly narrow topic, so we should assume for purposes of this analysis that a court will look more closely at any amendments than they would if the subject matter were broader. Nevertheless, the legislature can amend an initiative if the amendments "preserve its basic structure and purpose" *Warren v. Thomas*, 568 P.2d 400, 404 (Alaska 1977). As discussed more fully below, we believe that the amendments to the initiative made by this bill are valid because a court will find that they are certainly much more than a "hollow gesture" toward medical use of marijuana. 543 P.2d at 739.

Moreover, much of the original initiative still remains. For example, the proponents of the initiative specifically did not require a prescription by the physician, so as to avoid what they characterized as the practice in other states in which the federal authorities threatened action against doctors writing such prescriptions. SB 94 retains this provision and requires only that the physician consider other approved medications and treatments. By not requiring a formal prescription, SB 94 avoids an argument that the amendment is simply a "subterfuge to frustrate the ability of the public to obtain consideration and enactment" of a law allowing use marijuana for medical purposes. *Id.*

Main Changes made to the Initiative

The Department of Health and Social Services, Department of Public Safety, and Department of Law identified several changes needed to make the medical marijuana law work, and SB 94 addressed most of these issues. The issues that were important to this Administration were:

- ▶ Recognize that marijuana, like other prescription drugs, should be a controlled substance, regardless of how it is used.
- ▶ Prohibit patients from selling or distributing marijuana.
- ▶ Limit the number of patients who can be supplied marijuana by the same person.
- ▶ Require mandatory registration with the Department of Health and Social Services.

- ▶ Limit possession to one ounce and six plants.
- ▶ Allow police to take action in medical marijuana cases just as with misuse of a prescription for a narcotic drug, and make the legal burden of proof for medical marijuana consistent with that applied to other drugs.
- ▶ Allow access to the registry in criminal investigations.

Each of these points is discussed below and analyzed in terms of the legal standard set out above.

Marijuana Should Be a Controlled Substance, Regardless of How It Is Used. The medical marijuana initiative provides that marijuana used for medical purposes is not a "controlled substance." AS 11.71.190(b). This seemingly insignificant change has serious legal consequences because many other state laws depend on the phrase "controlled substance." For example, it is a crime to possess a firearm while under the influence of alcohol or a controlled substance. AS 11.61.210(a)(1). Thus, because medical marijuana is no longer a "controlled substance," a patient intoxicated on marijuana could lawfully possess and use a firearm. Although the laws relating to driving while intoxicated use a different definition of controlled substance, and thus we believe that a patient can be convicted for driving after using marijuana, an attorney for the legislature has written an opinion that suggests that it is possible a court would not allow prosecution or conviction for driving while intoxicated.

By continuing to treat marijuana as a "controlled substance," SB 94 takes into consideration the potential for abuse of the drug, while at the same time allowing it to be used to address debilitating conditions. This change does not repeal the initiative.

Prohibit Patients from Selling or Distributing Marijuana. The medical marijuana initiative contains an oddly worded provision that would allow registered patients to sell or give marijuana to anyone else, as long as the registered patient did not know that the buyer was not eligible to be registered. AS 17.37.040(a)(3). The legislature heard testimony that this could lead to the problem encountered in California, where retail outlets, euphemistically called "marijuana clubs," sprung up after the medical marijuana initiative was enacted in that state.

There was legislative testimony that the price of marijuana in California clubs ranged from \$20 to \$120 for one-eighth of an ounce, thus offering a product selling for nearly \$1,000 per ounce. One large marijuana club in San Francisco had profits of \$1 million per month before it was shut down. Although California authorities were able to close that business, it appears that the Alaska medical marijuana initiative would allow selling by patients.

SB 94 takes into consideration the potential for abuse of the drug and making a profit on its use, while at the same time allowing it to be used to address debilitating conditions. This change does not repeal the initiative.

Limit the Number of Patients Who Can Be Supplied Marijuana by the Same Person.

The initiative is silent as to the number of patients who can be supplied marijuana by a single caregiver. If one person is allowed to supply marijuana to multiple patients, at least two problems are created. First, the designated caregiver would be allowed to possess one ounce plus six plants for each patient, thus allowing large growing operations, and the caregiver could transport and distribute multiple ounces of marijuana. Second, the caregiver would almost certainly have a large profit-making incentive and could easily take advantage of patients, as was done in the California marijuana club selling marijuana for triple the price of gold. SB 94 also prohibits convicted felony drug offenders from being caregivers and raises the minimum age for caregivers to 21, which is consistent with laws relating to possession of alcohol.

SB 94 also changed the definition of "primary caregiver," so as to give patients a broader choice of persons to assist them in obtaining marijuana. Moreover, the bill also eases a restriction in the initiative by allowing each patient to have a primary caregiver, as well as an alternate caregiver who can take the place of the primary caregiver in that person's absence. Thus, while SB 94 imposes some different requirements on caregivers in light of the potential for abusing the drug and making a profit on its use, at the same time the bill allows patients additional flexibility to designate "caregivers."

The changes to the laws on caregivers do not repeal the initiative.

Mandatory Registration. The marijuana initiative allows patients to register with the Department of Health and Social Services, but does not require it. From a quick reading of the initiative, it is not immediately apparent that persons are allowed to use marijuana for medical purposes even if they have not registered with the Department of Health of Social Services. Yet a careful legal review discloses that this is the result. AS 17 37.030(a).

The optional registration was described in testimony by many police administrators as a serious practical problem for the police. If a person tells a police officer that he or she is possessing marijuana for medical purposes, but is not registered, the officer has two choices, neither of which is acceptable: the officer can seize the marijuana and arrest the person, thus possibly depriving someone of a substance the person legitimately needs for medical care, or the officer can let the person go on his or her way, thus in essence overlooking a criminal act if the person cannot legally use the substance.

The prime sponsor of the initiative testified that some persons with debilitating conditions may choose not to register because they believe it is a violation of their privacy. However,

those fears should be allayed because the application process for registration does not require the patient to disclose the nature or symptoms of their condition. Moreover, the police will not have access to the registry for general investigative purposes and will be allowed access only to confirm that a person who claims to be registered is in fact registered. Mandatory registration is a protection for patients, because the police will be able to determine immediately that they can lawfully use marijuana for medical purposes.

Mandatory registration also cures unintended problems that arise because the initiative treats registered users differently from unregistered users in several ways. One of the examples of this different treatment is that registered patients cannot use marijuana in public. AS 17.37.040(a)(2). Yet there is no similar restriction for unregistered users. Unregistered persons who uses marijuana in public can therefore do so freely, as long as they can show they have a medical need to use marijuana. This difference in treatment is hard to justify, and thus a registered patient is likely to be able to convince a court that it is a denial of equal protection of the laws, and a restriction on their right to use marijuana, that a registered patient is prohibited from doing in public what an unregistered person can do. Without mandatory registration, the initiative would allow marijuana to be openly used in public, which could lead to a backlash against the law.

Even though SB 94 requires registration for all marijuana users, whereas the initiative makes registration optional, we do not believe this change can be characterized as a repeal of the initiative as lawful medical use of marijuana is still permitted under the bill.

Limit Possession to One Ounce and Six Plants. SB 94 limits patients to possessing one ounce plus six plants of marijuana. The one-ounce-plus-six-plants limit is contained in the original ballot initiative that enacted the medical marijuana provisions, and thus is current Alaska law. AS 17.37.020(a). As such, it is presumptively valid. Because SB 94 adopts that same limit, it would also be presumed to be valid by the courts.

The ballot proposition goes on to provide, however, that patients can possess more than one ounce and six plants if they can prove by a preponderance of the evidence that a greater amount is "medically justified." AS 17.37.020(b). SB 94 does not adopt this exception.

Although the prime sponsor of the ballot initiative testified that some patients want to have more than one ounce plus six plants, there was no testimony before any committee that explained why that is so from a medical perspective. One medical marijuana user who testified in House Judiciary Committee did not register any objection to the one-ounce-plus-six-plants limit. Indeed, there was evidence presented that this is a large amount of marijuana for personal use for medical purposes.

There was testimony in committee hearings that the *average* mature marijuana plant seized by the Alaska State Troopers in 1998 provided four ounces of dried and usable marijuana, that

is, the dried leaves, buds and seeds, with roots and stalks removed. There was also testimony in the House HESS Committee from a Fairbanks police officer who participated in the investigation of one of the largest marijuana growing operations, where plants tended by a skilled grower were up to 10 feet tall and yielded up to two pounds of marijuana each.

The three mature marijuana plants allowed by SB 94 provide an average of 12 ounces of usable marijuana. The committee testimony showed that the three other plants provide an average of three more ounces, for a total of 15 ounces of usable marijuana in plant form. Thus the testimony establishes that one ounce plus six plants, on average, yields one pound of usable marijuana.

The House Judiciary Committee heard testimony from a user of marijuana for medical purposes, who indicated that his medical needs required one ounce of marijuana every 10 days. The House HESS Committee heard testimony from a federal official who indicated that each marijuana cigarette uses about one-half gram of marijuana, thus yielding 56 cigarettes per ounce. The federal official's testimony assumed a duration of effectiveness lasting only two hours per cigarette, which means a person would need eight cigarettes per day to stay under the influence of marijuana for 16 hours, or essentially all their waking hours. Even at this unrealistically high rate of consumption of low-grade marijuana, one ounce would last a week for a heavy user of marijuana for medical purposes.

The testimony before the legislature thus shows that a patient with one ounce plus six plants has, on average, access to 16 ounces of marijuana, which provides a constantly regenerating 16-week supply, even if they use it at a rate that keeps them intoxicated all the time. There was no evidence, and no testimony, that this amount is not adequate for patients for medical purposes.

The portion of the ballot initiative that allows more marijuana if the patient proves it is "medically justified" raises two primary issues. The first issue is the practical difficulty created for police officers if every patient is allowed to possess a different amount of marijuana, depending upon what the patient can later show in court. Testimony by police officials showed that the best approach for both police officers and patients is a clear "bright line" rule that establishes a set amount that can be possessed. This was a matter of policy for the legislature to consider.

The second issue revolves around the "medical justification" that would authorize more than one ounce plus six plants. While this can be characterized as a question of medical care, it appears that this, too, was a policy matter for the legislature.

In terms of actual *medical* justification, a patient needs only enough marijuana for his or her immediate use. Anything more than that is not a matter of medical *need*, but a matter of convenience for the patient or the patient's caregivers.

It may very well be the case that possessing four ounces of usable marijuana, or eight ounces, or possessing 12 plants or 24 plants is more convenient for the patient than one ounce plus six plants. But there was no testimony in any committee that there is any possible *medical* justification for greater amounts than one ounce plus six plants. The issue for the legislature, then, was whether the increase in convenience outweighs the risks in allowing greater amounts of marijuana to be freely possessed, grown, and transported by patients and caregivers. Whether to allow more marijuana than one ounce plus six plants therefore appears to be a pure policy question for the legislature, rather than a medical one.

Given the testimony before the legislature about the potency and profitability associated with marijuana, we believe that a court would find that the one-ounce-plus-six-plants limit in SB 94, with no provision for possession of greater amounts, is a proper exercise of the legislature's authority to amend the medical marijuana law.

Allow Police to Take Action in Medical Marijuana Cases Just As with Misuse of a Prescription for a Narcotic Drug, and Make the Legal Burden of Proof for Medical Marijuana Consistent with That Applied to Other Drugs. The medical marijuana initiative gave registered patients immunity from arrest, prosecution, and conviction for any offense related to medical use of marijuana, even if the patient possessed more than the legal limit of marijuana. AS 17.37.030(b). Even if the state had evidence that the person possessed a large amount of marijuana, police and prosecutors could take no action. Although the prime sponsor of the initiative has indicated that this was not the intent of the initiative, it is certainly the plain meaning of the initiative. SB 94 removes this provision, and thus allows the police to make arrests just as they would with any other misused prescription drug: if it a felony offense, they can arrest if there is probable cause to believe that a crime has been committed, and if it is a misdemeanor offense the offense must also have been committed in the officer's presence. SB 94 also removes similar restrictions on the authority of police to seize and forfeit evidence, thus allowing general Alaska law to control those actions.

SB 94 brings the medical marijuana law into conformity with other laws that make it an "affirmative defense" if a person seeks to rely on a statutory exemption to otherwise illegal conduct. For example, the concealed handgun law requires the registered person to prove he or she is registered and that the carrying of the handgun conformed to the law. More directly to the point, however, Alaska law for many years has required that users and dispensers of controlled substances have the burden of proving by a preponderance of the evidence that they are entitled to any exemption or exception in the controlled substances laws. AS 11.71.350. Thus SB 94 puts medical users of marijuana in exactly the same position as users of prescription drugs.

Given that this allocation of burden of proof does not appear to unduly restrict access to prescription drugs, it is not a repeal of the marijuana initiative. Similarly, it is not a repeal to remove the practical impediments to police officers, by allowing them to use general laws relating to arrests and forfeiture actions, just as they can with any other prescription drug.

Allow Access to the Registry in Criminal Investigations. This Administration favored a provision allowing police access to the registry in the course of a criminal investigation. SB 94, however, retains the language in the initiative that allows access only if a person claims to be a registered patient or caregiver. We believe that this level of confidentiality will interfere with some police investigations, and make police investigative efforts more difficult. The Administration may wish to consider requesting amendments in the future if this proves to be unworkable or not in the state's best interest.

Other Changes. SB 94 changes the medical standard for a physician to recommend marijuana to a patient, by requiring the doctor to consider other approved medications and treatments. With new pain killers coming on the market all the time, as well as the availability of new nausea medications and FDA-approved synthetic THC (delta-9-tetrahydrocannabinol, the active ingredient in marijuana), it would seem to be sound medical practice to consider these other approved alternatives before advising a patient to use an unregulated substance of unknown purity and potency.

Although SB 94 does change the medical standard, by requiring doctors to consider other approved medications before recommending marijuana, this is certainly a much more flexible standard than expressed in a recent report by the Institute of Medicine of the National Academy of Sciences, and it does not constitute a repeal. The sponsor of SB 94 circulated information to legislative committees about the report, which stated that, given the health risks associated with smoked marijuana, short-term use of marijuana by certain patients was justified only if the "failure of all approved medication to provide relief has been documented." *Marijuana & Medicine: Assessing the Science Base* (Recommendation 6), National Academy Press, Washington, D.C., 1999.

A long-time Alaska physician testified in the House HESS Committee and stated that in his experience almost all requests for marijuana for medical purposes come not from patients with terminal illnesses, but from patients with chronic conditions who will be using marijuana indefinitely. The physician testified that research showed marijuana has seven times the amount of tar and other potentially cancer-causing substances as cigarettes and that there was therefore the potential (although specific research had not been done) that marijuana presented seven times the cancer risk of cigarettes. Thus the legislature certainly had an adequate record upon which to make a change in the standard to be applied by physicians, and the change in the medical standard does not repeal the initiative.

In addition to tightening up the medical marijuana law, SB 94 relaxed some requirements of the initiative. First, it allowed marijuana to be transported by patients and caregivers. The marijuana initiative defined medical use of marijuana to include transportation of marijuana. The initiative went on to say that registered patients could not "engage in medical use of marijuana" in public. This meant that marijuana could not be transported. Although this provision might have been struck down as unconstitutional (as discussed above), the law might very well have imposed a practical burden on patients and caregivers. Second, as discussed above, although SB 94 limits each