

LEGAL SERVICES

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MEMORANDUM

February 6, 2017

SUBJECT: Off-highway system driver's license
(HB 82; Work Order No. 30-LS0367\A.2)

TO: Representative Jonathan Kreiss-Tomkins
Attn: Berett Wilber

FROM: Hilary V. Martin
Legislative Counsel

Attached is the amendment you requested. I have changed AS 28.10.011(10) to make it clear that the language only applies when a person is driving a non-commercial motor vehicle, and have also changed the "or" to an "and" in AS 28.10.011(10)(A). I have made a similar change in AS 28.22.011(a)(1).

The federal regulations at 49 C.F.R. 383.3(e)(2) refer to the license as a "restricted commercial driver's license." You may wish to change the bill to reflect the term used in federal regulation.

Additionally, the federal regulation applies to when a person with a restricted commercial driver's license can operate a commercial motor vehicle. If a person has a restricted commercial driver's license, the person can operate a commercial motor vehicle only in areas of the state that are not connected by land highway or vehicular way to the land-connected state highway system, and in areas that are not connected to any highway or vehicular way with an average daily traffic volume greater than 499. The federal regulation does not specify when a vehicle does or does not have to be registered.

AS 28.10.011 relates to when a vehicle must be registered. From my understanding of the federal regulation and the email received from Cori Mills, it appears that a commercial motor vehicle must be registered regardless of where it is in the state. The federal regulation only relates to where a person with a restricted commercial driver's license can operate a commercial motor vehicle in the state. A person operating a non-commercial motor vehicle in the state with a restricted commercial driver's license would seem to fall within the registration requirements under AS 28.10.011(11). Therefore, it may be possible to simply repeal AS 28.10.011(10) because it appears that a commercial motor vehicle always has to be registered, and then AS 28.10.011(11) could be amended to clarify that it applies to non-commercial motor vehicles but to a person with any kind of driver's license, including a restricted commercial driver's license.

If I may be of further assistance, please advise.

HVM:boo
17-126.boo

Attachment