

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION COMMITTEE
FEBRUARY 19, 2002
2:03 p.m.

MEMBERS PRESENT

Senator John Cowdery, Chair
Senator Robin Taylor
Senator Gary Wilken
Senator Kim Elton

MEMBERS ABSENT

Senator Jerry Ward, Vice Chair

COMMITTEE CALENDAR

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 68(JUD)(efd am)
"An Act relating to accidents involving the vehicle of a person under the influence of an alcoholic beverage; and providing for an effective date."

MOVED CSSSHB 68 OUT OF COMMITTEE

SENATE BILL NO. 265

"An Act relating to physician assistants; providing that a physician assistant is a health care provider covered by certain laws relating to medical malpractice actions; adding physician assistants to the list of providers against whom unfair discrimination relating to health care insurance is prohibited and to the list of providers who can provide proof of disablement or handicap for the purpose of obtaining a special parking permit; and providing for an effective date."

MOVED CSSB 265 OUT OF COMMITTEE

SENATE BILL NO. 260

"An Act relating to historic and antique motor vehicles; and providing for an effective date."

MOVED SB 260 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

No previous action to record.

WITNESS REGISTER

Representative Norman Rokeberg

Alaska State Capitol, Rm. 118
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SSHB 68

Kac'e McDowell, Executive Director
Alaska Cabaret, Hotel, Restaurant and Retailers Association
1111 East 80th Ave. Suite 3
Anchorage, AK 99518

POSITION STATEMENT: Supports CSSSHB 68 (JUD) (efd am)

Senator Donny Olson
Alaska State Capitol, Rm. 510
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SB 265

Ed Hall, Board of Directors
Alaska Academy of Physician Assistants
P.O. Box 74187
Anchorage, AK 99707-4187

POSITION STATEMENT: Supports SB 265

Susan Mason Bouterse, Executive Director
Sunshine Community Health Center
Talkeetna, AK

POSITION STATEMENT: Supports SB 265

Mary Marshburn, Director
Division of Motor Vehicles
3300B Fairbanks St.
Anchorage, AK 99503

POSITION STATEMENT: No opposition to CSSB 265 and no opposition to SB 260

Senator Randy Phillips
Alaska State Capitol, Rm. 103
Juneau, AK 99801-1182

POSITION STATEMENT: Sponsor SB 260

Bruce Campbell, President
Model T Ford Club
Anchorage, AK

POSITION STATEMENT: Supports SB 260

Dick Hemmingsen, Vice President
Antique Auto Musers Association
Anchorage, AK

POSITION STATEMENT: Supports SB 260

ACTION NARRATIVE

TAPE 02-06, SIDE A

CHAIRMAN JOHN COWDERY called the Senate Transportation Committee meeting to order at 2:03 p.m. Present were Senator Wilken, Senator Elton and Chairman Cowdery. Senator Taylor arrived at 2:15 p.m. Chairman Cowdery announced they would be addressing HB 68, SB 265 and SB 260.

#HB 68

HB 68-IMMUNITY: CABBIE DRIVING DRUNK'S CAR HOME

REPRESENTATIVE NORMAN ROKEBERG, sponsor of HB 68, thanked the committee for hearing the bill. He said the bill was requested by:

- Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR)
- Anchorage Downtown Partnership Association
- Downtown Licensed Beverage Association in Anchorage.

It would allow implementation of the "Off the Road Program" commonly know as the "Tipsy Taxi Provisions". This program would allow two taxi drivers to take an inebriated drinker home along with his vehicle.

REPRESENTATIVE ROKEBERG explained many drinkers are reluctant to leave their vehicle at the premise where they were drinking. When it comes to that crucial decision about whether or not they should drive home their judgment may be swayed by the fact they do not want to leave their nice new vehicle in the parking lot. They might make that decision improperly.

The Anchorage Downtown Partnership put together a program that allows a cab driver to take an inebriate home in one cab and allows another cab driver to drive that persons car home. This service is provided for a fee of \$40, a very reasonable fee in the Anchorage bowl area. The problem is they believe it would cost an excess of \$1000 per month for taxi's to insure this service. They came forward with this legislation that provides for limited immunity in these circumstances. The bill grants immunity typical of defendants of Dram Shop liability cases.

REPRESENTATIVE ROKEBERG said the bill protects potential third party right of action by the implied consent subsection on page 2, line 13 (d). If the cab driver driving the inebriates car hits another car the subsection allows for the person who was damaged to seek the insurance claim against that car even though

the cab driver was driving it rather than the owner. It does not preclude liability in cases of gross negligence, reckless or intentional misconduct.

REPRESENTATIVE ROKEBERG said this is a good samaritan bill. It allows a small program that could have some lasting effects on the safety of streets in Alaska to go forward.

KAC'E McDOWELL, Executive Director, Alaska Cabaret, Hotel, Restaurant and Retailers Association (CHARR), said this bill would be utilized state wide, not just in Anchorage. They started the program in Anchorage because it was such a necessity for getting people's cars home from downtown where they cannot leave their cars. She was working on programs all over the state for the Safe Drive Program and the Off the Road Program was going to be incorporated in those programs. Affiliates around the state sent letters attesting to the fact they would like to incorporate this in their Safe Drive Program. She talked to several cab drivers that have been utilizing this program but they fear the insurance is not going with the car as it would in the case of someone too intoxicated to make that decision.

She said this is not just for inebriated people. Responsible drivers want to get home and get their car home at a reasonable fee. They want to know their car will be safe and not leave it in a place where it will be towed or vandalized.

CHAIRMAN COWDERY said he was under the impression if he drives someone else's car, liability insurance is furnished for the car whether the driver is insured or not. He asked Representative Rokeberg how that fit in with this legislation.

REPRESENTATIVE ROKEBERG said he believed Chairman Cowdery was correct. He thought insurance followed the car not the driver in Alaska. This bill would make sure that was the case and would allow for recovery on the part of an injured third party in case there was an accident caused by the taxi driver driving the person's car.

He said Ms. McDowell made a good point and he had used the word inebriate when he should not have. It is really a person who is under the influence. In Alaska, that would be to have a .08 Blood Alcohol Concentration (BAC). He said the committee should be aware the definition of impairment had been lowered all the way down to .04 BAC. You could be impaired or legally under the influence of alcohol if you only had .04 BAC, which may be only one or two drinks. This service would be available to anybody who had a couple of drinks and was concerned about whether or not

they had their full faculties.

SENATOR ELTON asked about page 1, line 10. He wanted to know why they restricted the provisions of the bill to people who start driving from or near licensed premises. He said they were excluding a large class of instances in which people may drink to excess such as wedding receptions, retirement parties and other kinds of events that are not at or near a licensed premise.

REPRESENTATIVE ROKEBERG said with a grant of tort immunity they want to make sure the scope is very narrow and it can be administered under the law properly. There is potential to allow two cab drivers to come to a home but they should walk before they run. They need to make sure the program is workable and adopted throughout the state rather than expand its immunity. If they were to do that it might kill the program because economics are limited. The \$40 rate in downtown Anchorage is going to be subsidized by the premise owners or the participating groups. Two cab drivers may be very expensive. There is an implicit subsidy of the rate from or near licensed premises. The rate for the general public would not be subsidizing and the fees would go up substantially. Expanding it would probably kill the bill.

SENATOR ELTON said if a person is in a licensed premise in Palmer but lives in south Anchorage that would be a greater cost than somebody that needs to get from a wedding reception in mid Anchorage to College Park. He asked to meet with the sponsor or his staff to talk about some of the restrictions. He thought it was a good idea but did not deal with the whole problem.

MS. McDOWELL explained their Off the Road Program is through Anchorage Against Drunk Driving. The bill would relieve the taxi cab driver from liability and then the Off the Road Program will be a separate entity. Whether this will be available to someone in Eagle River will have to do with whether Eagle River gets involved in the program. These are two separate entities the passing of the bill to lift the liability then they can do the program. They ran into a problem doing the program because they were afraid they might put the liability on the taxi cab drivers. Taxi drivers were charging four times the meter to take a car home and now through grants and money from the bars and restaurants there will be a \$40 charge.

REPRESENTATIVE ROKEBERG said it was a tort issue and would be going to the Senate Judiciary Committee.

SENATOR WILKEN moved CSSSHB 68 (JUD) from committee with individual recommendations and attached zero fiscal note. There

being no objection, the motion carried.

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#SB 265

SB 265-PHYSICIAN ASSISTANTS/NURSE PRACTITIONERS

SENATOR OLSON, sponsor of SB 265, introduced the bill on the advice and request of the Alaska Academy of Physician Assistants. He said he could answer questions on Section 1 and Section 2 but the section that was of most interest was Section 3 under the Committee Substitute (CS). This would allow physician assistants to provide proof of eligibility for a disabled veteran license plate and for issuance of a parking permit for a handicapped or disabled person. Currently physicians, other mid-level practitioners and specifically advanced nurse practitioners provide eligibility.

ED HALL, Physician Assistant, Alaska Academy of Physician Assistants, said all three of the issues in Sections 1, 2 and 3 were very important to physician assistants. He said they probably had been excluded because the statutes were written before physician assistants were a recognized presents in Alaska.

SUSAN MASON BOUTERSE, Executive Director of Sunshine Community Health Center, expressed her support of SB 265. She addressed the first two statutes being amended to add physician assistants as being critical to health care in Alaska. Sunshine Community Health Center is a mid-level clinic with four physician assistants providing primary health care. They work under a collaborative agreement with a physician in Wasilla. They are critical to health care of residents in the community and the ongoing functioning of the health center.

Because the current state statute denies inclusion of physician assistants to the listing of health care providers they periodically have their billing for medical services by those providers denied by third party payers. This represents a significant barrier to health care for individuals that have health insurance as well as for clinics to be able to maximize potential revenue. For all rural health clinics every potential revenue source is critical to ongoing support.

CHAIRMAN COWDERY asked Senator Olson to elaborate on duties taken care of by physician assistants.

SENATOR OLSON explained physician assistants work with a collaborative physician and do many things a physician would do.

Because they do not have the training of a medical doctor they are at times not accorded some of the privileges allowed physicians and in this case advanced nurse practitioners. For example they are not included in some of the medical liability statutes as well as recognition by some third party payment recipients. He said that was the reason the bill was being presented and specifically the CS that has the provision that allows physician assistants to give specially disabled veterans license plates and parking permits for those people that are handicapped.

SENATOR TAYLOR said the concern he had was the impact this would have on the ability of physician assistants to get reimbursement. He asked if that was part of the purpose of the bill because the insurance company would recognize them as a full service provider and they can bill directly.

SENATOR OLSON said that was exactly what they were specifically trying to do in Section 2. That was the intent of the bill.

SENATOR TAYLOR said the bill mentioned medical malpractice. He asked if adding them to the list would require them to provide medical malpractice insurance or did it give them the opportunity to come under the medical malpractice insurance of the hospital or the physician they work with.

SENATOR OLSON said that question was part of the whole issue of trying to recognize physician assistants as professionals and with that came responsibility. If they make a mistake they need to be named as a defendant in a malpractice case. That does not mean they are guilty it just means they need to be able to be named by the plaintiff's attorney. He said with this also comes the ability for them to bill. He said being required to have malpractice insurance was not addressed in the bill and not the intent of the sponsor.

MR. HALL said the other aspect of Section 2, brought to their attention by an attorney, was when dealing with malpractice claims sometimes there is an arbitration board put together. The definition of who can participate on that arbitration board placed a limitation on physician assistants because they were not listed as a health care provider within that statute. Another reason they were asking to have their name recognized within that statute was so they could avail themselves to be on the arbitration board if called upon.

MARY MARSHBURN, Director, Division of Motor Vehicles (DMV), said she had not seen the CS. She had called Senator Olson's office

and suggested the CS. She asked Senator Olson if the CS addressed AS 28.10.181 rather than Section 3 from the original bill.

SENATOR OLSON said yes, section 3 relating to AS 28.10.181(d) was amended and they did have her concern addressed.

MS. MARSHBURN said with that knowledge DMV had no opposition to the bill. They think including physician assistants is a reasonable and good thing. The CS would allow them to have the same authority as physicians, nurse practitioners, and chiropractors in terms of signing the permit for disability placards or plates. If the CS is not substituted the bill in its current form only allowed the physician assistants to sign the evidence for permits and not for plates. DMV felt they should be able to sign for both.

SENATOR WILKEN moved to amend the Committee Substitute for SB 265. Hearing no objection, CSSB 265 (TRA) was moved from committee.

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#SB 260

SB 260-HISTORIC/ANTIQUÉ MOTOR VEHICLES

SENATOR RANDY PHILLIPS, sponsor SB 260, explained this bill related to restored and antique vehicles and would allow the vehicle owners to pay a one-time fee for the vehicle as opposed to what they are paying now on a biannual basis.

Secondly, the bill would allow for the owner of the vehicle to get an Alaskan license plate in the year the vehicle was manufactured. He said for example he has a 1969 Plymouth Roadrunner and if this bill were to pass and he desired to have a plate from 1969 it would be a white plate. A lot of other states have similar provisions in their laws to allow antique or classic car owners to have this.

CHAIRMAN COWDERY asked if you identify it as an antique vehicle on the plate.

SENATOR PHILLIPS said that was correct.

He said the Antique Auto Musers Association had endorsed this legislation. It has a zero fiscal note.

BRUCE CAMPBELL, President, Model T Ford Club, member Antique Auto

Mushers of Alaska, said they wanted to be able to use senior license plates on antique or historic vehicles for several years. They worked with Mary Marshburn, Director of DMV, to come up with this legislation. It would allow them to complete restoring old cars and put them back in the exact shape they were when they came out of the factory. Putting on the same year license plate makes the restoration complete and identifies the year of the car for people who are admiring it. He said this is not going to be a big thing because the bill specified the plates used for the antique vehicles have to be supplied by the owner and acquiring those plates can be quite a task. With this bill the historic vehicle owner will have two options, he can continue on with the existing law and the existing historic plate or he can elect to get the same year plate.

DICK HEMMINGSEN, Vice President, Antique Auto Mushers Association Anchorage Chapter, said they are in support of SB 260. They are active all over Alaska. Some of their recent activities included cars traveling to Kodiak Island, Fairbanks and Denali. They participated in the Anchorage Fur Rendezvous, the Alaska State Fair, the Bear Paw Festival in Eagle River and the Senior Center in Palmer. They take their cars quite seriously and this bill would allow them to complete their restoration process. He owns two 1956 Fords.

SENATOR WILKEN asked where the \$10 in the bill came from.

MR. CAMPBELL said existing law provided for historic license plates and the fee for an historic license was \$10. With this bill they would still pay the \$10 for the historic license plate but if they elect to use the same year license plate they would have to pay an additional fee of \$30.

SENATOR TAYLOR said that is a one-time fee and the only time you would have to pay it again is if you replace the plates. He said on page 2, line 9, where it says "one time only upon initial registration" only related to the payment of the fee not the use of the vehicle. Page 2, line 16, says "driven or moved on a highway for the primary purpose of historical exhibition or similar activity" restricts the use of the vehicle. He said he wanted to make sure they were not in any way further restricting how the vehicle could be used. He has a 1935 Ford pickup he fully restored and uses two or three times a year, usually in parades.

MARY MARSHBURN, Director, Division of Motor Vehicles (DMV), said Deputy Director Chuck Hosack was with her. He had followed the bill in 2001. DMV had no objection to the bill.

SENATOR ELTON said he was struggling with the concept that a car 24 years younger than he could be designated an historical vehicle. He would have preferred it if they made it any car produced before 1948.

SENATOR TAYLOR said he was excited because the current vehicle he drives is only two years away from being historical.

SENATOR ELTON said in his family they call that a junker.

SENATOR TAYLOR said that is what they call it in his family too but as long as it runs he keeps using it.

SENATOR TAYLOR moved SB 260 from committee with individual recommendations and attached zero fiscal note. There being no object, the motion carried.

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CHAIRMAN COWDERY adjourned the meeting at 2:41 p.m.