

ALASKA STATE LEGISLATURE  
**SENATE TRANSPORTATION COMMITTEE**

April 16, 2002  
1:38 p.m.

**MEMBERS PRESENT**

Senator John Cowdery, Chair  
Senator Jerry Ward, Vice Chair  
Senator Gary Wilken  
Senator Kim Elton

**MEMBERS ABSENT**

Senator Robin Taylor

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 238(STA)

"An Act relating to state safety plans, programs, and procedures and to systems, facilities, and infrastructure in the state; exempting from public inspection as public records certain records and information relating to state safety plans, programs, and procedures; and providing for an effective date."

MOVED CSSB 238(STA) OUT OF COMMITTEE

CS FOR HOUSE BILL NO. 397(STA)

"An Act exempting a person driving certain motor vehicles, aircraft, or watercraft from driver licensing requirements; and providing for an effective date."

HEARD AND HELD

**PREVIOUS SENATE COMMITTEE ACTION**

SB 238 - See State Affairs minutes dated 1/24/02, 1/31/02 and 2/12/02.

HB 397 - No previous action to consider.

**WITNESS REGISTER**

Ms. Carol Carroll  
Department of Military &  
Veterans Affairs  
PO Box 5800  
Ft Richardson, AK 99505-0800

**POSITION STATEMENT:** Explained the provisions of SB 238.

Ms. Deborah Behr  
Legislative and Regulations Section  
Department of Law  
POB 110300  
Juneau AK 99811-0300

**POSITION STATEMENT:** Answered questions about SB 238.

Representative Vic Kohring  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Presented HB 397.

Mr. Mike Krieber  
Staff to Representative Kohring  
Alaska State Capitol  
Juneau AK 99801-1182

**POSITION STATEMENT:** Commented on HB 397.

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

**POSITION STATEMENT:** Supported HB 397.

Ms. Marianne Beckham  
SNOTRAC  
3323 Wiley Post Loop  
Anchorage AK 99517

**POSITION STATEMENT:** Supported HB 397.

Mr. Robert Weber  
POB 873244  
Wasilla AK 99687

**POSITION STATEMENT:** Opposed HB 397.

Mr. Lee Johnson  
Fairbanks AK

**POSITION STATEMENT:** Supported HB 397.

**ACTION NARRATIVE**

**TAPE 02-17, SIDE A**

Number 001  
#SB238

**SB 238-PUBLIC RECORDS: STATE SECURITY & SAFETY**

**CHAIRMAN JOHN COWDERY** called the Senate Transportation Committee meeting to order at 1:38 p.m. and announced SB 238 to be up for consideration. Senators Ward, Elton, Wilken and Cowdery were present.

MS. CAROL CARROLL, Department of Military and Veterans, said that Deborah Behr from the Department of Law would testify with her.

MS. CARROLL said that SB 238 addresses state security and safety plans and procedures. She explained that Section 2 deals with exceptions to Alaska's public records statute. Currently, Alaska's public records statute is quite broad; most state information is available to the public. Section 2 will allow state agencies to withhold certain documents in certain circumstances. Section 3 pertains to the Administrative Procedures Act and allows plans to be adopted by Executive Order instead of by regulation, which requires public comment.

CHAIRMAN COWDERY asked her to explain the changes made in the Senate State Affairs committee substitute.

MS. CARROLL responded that the original bill had a section that allowed the Department of Transportation and Public Facilities (DOTPF) to have citation authority in international and rural airports. [Ms. Carroll's next statement was indiscernible.] Currently, the FAA can fine the states for security violations at international airports. There is no easy way for the state to pass that on to the actual violator so the State Affairs Committee took that out of the bill. In addition, Section 3 was tightened up. Section 3 used to apply to boards and commissions but the Senate State Affairs Committee thought that was too broad.

CHAIRMAN COWDERY asked her to explain the type of information they are talking about.

MS. DEBORAH BEHR, Regulations Attorney, Department of Law, told members that she is before the committee because she frequently advises state agencies on the public records act. She stated that Section 1 of the bill is designed to deal with a very narrow set of state records that deal with security plans, programs, procedures and detailed descriptions of state infrastructure. She explained:

It allows those records, which arguably could be disclosed to the public, to be exempted from public disclosure. Just because something is a security plan, it doesn't automatically mean that a state agency can

preclude its release into the public. We have to show that the disclosure would interfere with its implementation or that it would disclose confidential guidelines or would cause a substantial risk to the public to do so. The privilege in the bill is very similar to what law enforcement privileges are to law enforcement officers. The federal Freedom of Information Act (FOIA) has a national defense exception to it. We do not have a similar exemption in the state statute. People who believe that a state agency has unjustifiably withheld a record can ask for an administrative appeal on the issue and then ultimately go to court if they need to.

CHAIRMAN COWDERY asked her to give an example of the kind of information that would be undesirable to be made public.

MS. BEHR replied that an example might be a security system for a state building in which people wearing red badges on a certain day of the week were considered law enforcement officers and were not subject to the same level of search as the general public. In that case, the badge color of the day would not be disclosed to the general public.

There being no further discussion, SENATOR ELTON moved to pass CSSB 238(STA) with the attached zero fiscal note from committee. There were no objections and it was so ordered.

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CHAIRMAN COWDERY announced a brief at-ease.

#HB397

**CSHB 397(STA)-EXEMPTIONS FROM DRIVER'S LICENSING**

CHAIRMAN COWDERY announced HB 397 to be up for consideration.

REPRESENTATIVE VIC KOHRING told members the House Transportation Committee sponsored HB 397, which exempted the requirement of a driver's license for snow machines. The House State Affairs Committee expanded that exemption to include off-road vehicles. He explained that the current law defines snow machines as motor vehicles, so they require a driver's license.

He said that last year the House Transportation Committee invited DOTPF to present its winter transportation plan to the committee. The report made reference to various laws governing snow machine use, including the law requiring operators of a snow machine to have a driver's license even on trails. DOTPF published a brochure this last fall that spotlighted this issue and generated a lot of publicity. As a result, the House Transportation

Committee filed this bill. He said that he received calls from many parents who did not want to tell their children it is okay to break the law by riding a snow machine; parents who depend on their children to help them at fishnet sights; and Boy Scout leaders who have to tell 14 and 15 year olds that have passed safety courses they are too young to participate in these activities. What he found more profound is that it would adversely affect rural Alaskans, many of whom don't have access to roads or to a DMV office to take a driver's license test and who depend on snow machines, four-wheelers and boats as their only means of transportation. He said the things a person studies to take the driver's license test, such as using turn signals, don't necessarily demonstrate competence or relevance to driving a snow machine through the woods on a trail or driving a boat across a lake.

REPRESENTATIVE KOHRING noted that this bill does not allow off road vehicles to be used on roadways or highways. It deals strictly with off road conditions. The House Transportation Committee believes that safety is an important issue. Safety training courses are available on a statewide basis through the Trails and Recreation Access for Alaska (TRAAK) Board and snowmobile associations. In addition, there is also parental supervision.

He said the Division of Motor Vehicles and the Department of Law support this legislation.

MR. MIKE KRIEBER, staff to Representative Kohring, added that Lee Johnson is the TRAAK Board member who is the liaison to the SNOTRAC Board, a TRAAK subcommittee that is focusing on snow machine issues.

CHAIRMAN COWDERY noted he would be losing a quorum in five minutes.

SENATOR WARD moved to pass CSHB 397(STA) from committee with individual recommendations and its accompanying fiscal note.

SENATOR ELTON objected to ask if this bill would allow an unlicensed person to drive a snowmobile on a state highway or road or a municipal highway or road.

REPRESENTATIVE KOHRING replied that it does not.

SENATOR WILKEN objected and said he has some serious concerns. He asked that the committee take a brief recess and come back to the bill as it is a transportation issue that this committee should address.

CHAIRMAN COWDERY remarked that his children and grandchildren

started off on small "kid cats" riding on a trail with the family. They would be banned from getting a license because of their age. He asked Representative Kohring to comment.

MR. KRIEBER answered that one of the people who would be calling in today is standing in front of a judge at 2:00 for arraignment for receiving a ticket for allowing his child to operate a "kid cat."

REPRESENTATIVE KOHRING clarified that current law has been on the books for about 25 years, which very few people knew about. It requires a driver's license for off-road type vehicles or to drive a car or a truck on a city street or highway roads. He added:

We're just saying that we don't think it's an apples to apples comparison - the issue of studying material and taking a test to demonstrate competency of that material is germane when it comes to driving a car and a truck on a city street or highway and road - is germane toward operating a snow machine out in the woods or an ATV across a swamp or a boat across a lake.

He said because there is no direct comparison, this bill will simply remove the off-road driver's license requirement to clean up the issue.

1:59 p.m. to 2:24 p.m. - RECESS

SENATOR WILKEN said he understands the problem they are trying to fix, but he finds the cure worse than the disease. He asked what the difference is between a 14-year old driving a four-wheeler down a rural trail and a 14-year old driving a pickup down a dirt road.

REPRESENTATIVE KOHRING replied that there shouldn't be any difference.

SENATOR WILKEN suggested that there probably isn't any difference between a 14-year old on a four-wheeler on a rural trail and a 16-year old in a pickup driving down a dirt road. He expressed concern that this bill says it's okay for a 14-year old to jump on a snow machine that will go 110 miles an hour and drive without a license. He thought someone needed to say that they need training to do that. A driver's license in our society is a right of passage and shows a level of maturity. He thought this bill lifted that whole statement of personal responsibility off of the shoulders of the 14-year old and the parents.

REPRESENTATIVE KOHRING responded that the state doesn't require

any training for someone to drive a snow machine or an outboard across a lake right now.

SENATOR WILKEN said current law requires a 14-year old to have a driver's license to run a snow machine. Without that law, that requirement goes away. He asked Representative Kohring if he considered limiting this bill by engine size or age without lifting all responsibility so broadly.

REPRESENTATIVE KOHRING responded that operating a motorized vehicle on any roadway system does require a driver's license and the threshold age of 16 to do that. If they need to address the safe operations of the off-highway type vehicles as opposed to a car or a truck, they could craft legislation that would address the issue of requiring standards for anyone to meet to operate those different kinds of motorized vehicles. He thought that would fall in the area of recommendations that the SNOTRAC Board would come up with.

SENATOR WILKEN said he was concerned about the safety aspect of this legislation.

CHAIRMAN COWDERY said he thought they should have some limiting language.

SENATOR WARD noted that his motion was still on the floor and the reason he supports this legislation is that they are not talking about legally licensed vehicles to be driven on roads or secondary trails. He said the class of vehicles they are talking about needs to be separate.

SENATOR ELTON noted that part of the issue is whether they are substituting inappropriate training. He agrees with the sponsor that taking a driving test is probably not appropriate training to drive a snow machine across Big Lake at 80 mph, but he is not entirely comfortable with removing the inappropriate thresholds and substituting nothing.

MS. MARY MARSHBURN, Director, Division of Motor Vehicles (DMV), thanked Representative Kohring and Senator Ward for their support of this bill and said that DMV supports this bill, which will remove a glitch in the law that requires a driver's license for off-road vehicles and others that are not designed for road use.

SENATOR WILKEN asked Ms. Marshburn what problem this bill will fix.

MS. MARSHBURN said it cleans up a glitch in the law.

SENATOR WILKEN asked if it is an administrative problem for DMV.

MS. MARSHBURN replied that it is and the greater issue is for parents and families and for [the Department of Public Safety] that really has no or limited enforcement ability.

SENATOR WILKEN asked her if she agrees that it's legal to operate any vehicle crossing a public highway when going from one trail to another.

MS. MARSHBURN replied that is addressed although she didn't have the specific language.

SENATOR WILKEN asked if a 14-year old could operate a snow machine without any prior training.

MS. MARSHBURN replied that they could unless the parents provide some training.

SENATOR ELTON said he was assuming that under current law, if Troopers stop someone for operating a snow machine while intoxicated, points could be taken against their driving license.

MS. MARSHBURN replied that a DWI applies to operators of snow machines as well as cars.

SENATOR ELTON asked if this bill passes, which says you don't need a driver's license, whether DMV could take points away from an adult holder of a driver's license who is caught operating a snow machine while intoxicated.

MS. MARSHBURN said she believed so, but she would have to check with the Department of Law.

SENATOR ELTON asked her to do that and get back to him.

MS. MARIANNE BECKHAM, Chairperson, Snow Trail Advisory Committee (SNOTRAC) Committee, said they are a nine-member committee representing snow-mobilers, the industry and its groups who advises the Division of Parks and Recreation as well as administers grants that come from the snowmobile registration fees. She supports HB 397 because SNOTRAC is currently working on training and safety guidelines to present to the legislature governing the use of snowmobiles. They are acutely aware of the need for further training and safety education on the use of snowmobiles and support that 100 percent. Over 17 percent of their grants on an annual basis are specifically for safety and education programs - including safe speeds, how to read the terrain, which safety gear should be worn and operation of equipment. SNOTRAC believes a person needs training to operate a snowmobile no matter what age, but they believe requiring a driver's license is counterproductive. There are many villages throughout the state that require some mode of transportation to

schools or churches, etc. other than roads and highways. If they are required to have a driver's license, the state should be ready to substitute some method for them to get to school and to church, etc. She would much rather train them to use the vehicles appropriately and added that training would also extend into their adult life. They do not condone the illegal use of motorized vehicles on public roadways, but if she is operating her four-horse Johnson outboard down a river, she didn't know if the safety training that goes with driver's licenses is an applicable skill. "Safety education is the critical key," she said, and they want the opportunity to make recommendations to the legislature.

She noted that SNOTRAC is an independent organization and its opinions are not necessarily that of the Department of Natural Resources or the Division of Parks and Recreation.

SENATOR WILKEN asked when the curriculum for their training program would be complete.

MS. BECKHAM replied they would meet on Friday to have their first discussion on the scope of the regulations. They meet quarterly and they would be ready for the next legislative session.

SENATOR WILKEN asked if she would support a cubic centimeter (cc) limit on the vehicle, some sort of age limit and some sort of location-specific criteria.

MS. BECKHAM replied that she wasn't sure about the cc limit and would have to read the language. Another possibility is to base it on horsepower. She said possibly they could word it "outside of public roadways." She also commented that having a driver's license doesn't necessarily mean that you are mature and added that what's important is the training that you get.

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MS. BECKHAM said she would have to look carefully at what age would truly be appropriate.

SENATOR WILKEN asked her what problem this bill, as is, would solve today.

MS. BECKHAM replied that it would prevent well-intentioned parents who have purchased very small machines for their youngsters to ride and enjoy from engaging in criminal activity.

SENATOR WILKEN said he doesn't have a problem with the Kiddi Cats nor the four-horsepowers on the Deshkakat River. His problem is the state saying it's all right for 14-year olds to go 100 mph on a snow machine without any sort of training. He suggests that a

driver's license is the beginning of that training and he applauded their efforts to bring about more training. He thought that effort could be made into some legislation.

MS. BECKHAM thanked him and said they would keep people appraised.

SENATOR WARD said he agreed with her comments. He has six grandchildren; five of them are 7 to 9 and two are 11 years old. Last weekend all five of them took turns taking their snow machine to work the trap line on the Kashwitna River. He said they could not put enough laws or regulations in place to keep some people from going 110 mph. They can't legislate common sense. His five grandkids work a trap line and enjoy doing it even though two of them had been hurt on snow machines. They learn from it and that's part of life.

MR. ROBERT WEBER said he was representing himself and any other people who had been driving on highways that had near misses with snow machines and ATVs. He doesn't have a problem with people taking their family out to do whatever they want to do on private property, but his problem is when a snow machine crosses a roadway in front of a legal vehicle driving down the road or when one drives over a culvert without guard rails and hits a pedestrian. According to the State Troopers, the snow machine driver didn't violate the law. That has happened twice there. He said the Board is wrong and that:

This bill will allow unlicensed drivers on the roadways, because under state statute, there are many conditions in which you can legally drive a snow machine on the roadway. By taking away the driver's license requirement, you can have 15 DWIs and you could still get down to the Park. You can get home legally.

He said another issue is what will happen to the federal highway funds when the federal government finds out the State of Alaska is allowing unlicensed drivers on the roadway system. He stated, "I've got serious problems with snow machines and ATVs on the roadway. I don't drive my car down trails and I don't think they should be on roadways."

He said he could count 50 to 500 violations of the law in his neighborhood any weekend of the year. He said the snow mobile drivers deliberately try to see how much snow they can pile in his driveway. He said he made a left-hand turn into his driveway once and almost hit a snow machine that was passing him on the left from behind in the roadway.

SENATOR WARD asked if he could name a specific law that says it's legal for a snow machine or ATV to be on the road and asked if he

could give him the name of the Trooper who said it was a law.

MR. WEBER said he could cite the statute, 13 AAC 2.403 - Riding Snow Machines and Other Off-Road Highway Vehicles and 13 AAC 2.455 - Operation on Highways and Other Locations. He added, "It is legal under state statute to ride snow machines on the roadway under certain conditions."

SENATOR WARD asked what the conditions were.

MR. WEBER replied:

You can ride across the street, you can ride across a four-lane highway, you can traverse it, but you can't ride down the center of the median, but you can ride across it. If there's a bridge, like the Susitna River Bridge on the Parks Highway, you can have your four-year old kid on his Kiddi Cat riding down a lane of traffic to cross the river.

SENATOR WARD said he was describing the ability to cross the road or to cross a river, but he wasn't talking about riding on a roadway.

MR. WEBER replied that they are crossing on a roadway. He said the Alaska State Troopers told him that operators can drive down a roadway with guardrails and someone did that in Susitna, killing a pedestrian.

SENATOR WARD said that Trooper was mistaken.

MR. WEBER said he was also told by the Palmer State Troopers that it was their opinion that it is legal to ride a snow machine without a driver's license currently.

SENATOR WARD said it is legal, but not on a roadway.

CHAIRMAN COWDERY said the Trooper was wrong and he was probably trying to say that you can do that if you're crossing a road or river.

MR. WEBER clarified that the Trooper told him it was legal for a four-year old driving down the road in front of his house, crossing his roadway because he was not required to have a license.

SENATOR WARD responded that there is an exemption to cross a road or a river.

MR. WEBER said he was told it was legal to drive a machine

without a valid operator's license.

SENATOR WARD said that was correct. This bill attempts to repeal the driver's license requirement, but the people who are driving on the road in front of his house would still be breaking the law with or without the license.

MR. KRIEBER said current law requires a driver's license to operate a motor vehicle - period. This bill attempts to remove that requirement for crossing the road, a river or a lake. It does not allow someone to drive down a road. He said the Department of Law is aware of the accidents and has decided that the driver's license issue was minor compared to the other issues.

MR. LEE JOHNSON, Fairbanks Trails and Recreational Access for Alaska Board member, said he is liaison to the SNOTRAC Board and that they had not taken a position on this bill, but he supported dropping the license requirement. He thought it was the wrong tool to address a lot of people's concerns with training and education, adding that it would be good to have a program in place to replace the licensing requirement and that people are working on it.

He said using horsepower language is an uncertain remedy, because the new generation of snow mobiles is being developed as four-strokes. They are a lot higher displacement, but not necessarily high-powered. Some of the lowest power machines have the highest displacement. No amount of regulations will address irresponsible people who are inclined to ignore common sense and public safety.

He added that a snow machine that goes 100 mph is about as common as the 80 lb. king salmon and the speed of machines might be exaggerated. There are few machines that go that fast and a small segment of the population that would do it and he would support efforts to "reel in" that segment of the population.

SENATOR WILKEN asked Ms. Marshburn if there was any minimum age to take the driver's license test.

MS. MARSHBURN replied 14 years old.

SENATOR WILKEN said he understood they couldn't get a permit until they were 14 years old, but he wanted to know if someone could take the test at 13.

MS. MARSHBURN said she would have to look at the language, but she didn't think so, because there are other requirements that have to be met before the department will test an individual.

In reference to Senator Elton's question, she said a DWI is still

applicable to a snow machine operator whether he has a driver's license or not.

SENATOR ELTON thanked her for the follow-up and noted if there is no license for a snow machine operator, that takes away one of the remedies for someone who abuses the privilege of driving a snow machine. The license cannot be revoked as punishment and you cannot prevent that person from using the machine. He asked if that was correct.

MS. MARSHBURN responded that the same thing would apply to a boat or an airplane. They can be cited and penalized for DWI, but there is no license requirement in this law for those.

SENATOR WARD moved to remove his motion to move the bill out of committee and asked for unanimous consent. There were no objections and it was so ordered.

SENATOR WILKEN asked why, on the page entitled, "Applicable Legal Definitions," number 25 is there.

REPRESENTATIVE KOHRING replied that they had a different version of this bill in the House Transportation Committee that referred to a different section of the law that removes the driver's license requirement. It accomplishes the same goal of removing the driver's license requirement, but they did it in a different way. The vehicular waiver area was in that earlier Transportation version and doesn't apply to this one.

SENATOR ELTON said he wanted the sponsor to know that he wasn't necessarily opposed to this bill, recognizing the implications of maintaining the requirement that everyone needs a driver's license. He was not prepared to make up his mind today. He wanted to talk to the Troopers and the Department of Law to see what kinds of discretions they are exercising now.

REPRESENTATIVE KOHRING said he had a gentleman to testify, but he is standing before a judge on arraignment right now on this exact issue.

SENATOR ELTON said he was more interested in hearing from the Troopers and the Department of Law and how this affects the recreational as well as the lifestyle users of these machines than from someone who has been charged.

SENATOR WILKEN said if they are writing tickets for people who are safely operating Kiddi Cat snow machines, there is something wrong.

SENATOR WARD said that's what's happening.

CHAIRMAN COWDERY said he intended to bring this bill back and asked the sponsor to work with Senator Wilken on his concerns.

SENATOR ELTON asked the SNOTRAC people, if they develop any suggestions at their Friday meeting, to get them to the committee.

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COWDERY said he thought something needs to be done on this issue and hoped they would work together and adjourned the meeting at 3:20 p.m.