

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION COMMITTEE

May 2, 2002
3:08 p.m.

MEMBERS PRESENT

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

MEMBERS ABSENT

All Members Present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 523(TRA)

"An Act naming the state airport at the City of Unalaska the Tom Madsen Airport."

MOVED CSHB 523(TRA) OUT OF COMMITTEE

SENATE BILL NO. 348

"An Act relating to insurance for and work on certain motor vehicle repairs; and providing for an effective date."

MOVED CSSB 348(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

HB 523 - No previous action to record.

SB 348 - See Transportation minutes dated 4/11/02.

WITNESS REGISTER

Ms. Susan Wells
Staff to Representative Carl Moses
Alaska State Capitol
Juneau, AK 99801-1182

POSITION STATEMENT: Explained the purpose of HB 523.

Mr. Frank Kelty
POB 162
Unalaska AK 99685

POSITION STATEMENT: Supported HB 523.

Mr. Sinclair Wilt
POB 502
Unalaska AK 99685
POSITION STATEMENT: Supported HB 523.

Ms. Annette Deal
Staff to Senator John Cowdery
Alaska State Capitol
Juneau, AK 99801-1182
POSITION STATEMENT: Explained the changes made in CSSB 347(TRA).

Mr. Michael Lessmeier
State Farm Insurance Company
3000 Vintage Blvd. No. 100
Juneau AK 99801
POSITION STATEMENT: Expressed concern that certain provisions of
CSSB 347(TRA) would limit competition.

ACTION NARRATIVE

TAPE 02-22, SIDE A
Number 001
#HB523

HB 523-TOM MADSEN AIRPORT AT UNALASKA

CHAIRMAN JOHN COWDERY called the Senate Transportation Committee meeting to order at 3:08 p.m. and announced HB 523 to be up for consideration.

MS. SUSAN WELLS informed members that HB 523 has the full support of the mayor of the City of Unalaska and surrounding communities. She noted that Tom Madsen was very highly thought of by everyone on the entire Aleutian Chain.

MR. FRANK KELTY said he is the former mayor of Dillingham and that all the villagers believe it is an appropriate honor to name the airport after Tom Madsen.

MR. SINCLAIR WILT related that 15 years ago, when one of his daughters was only 14 months old, she got into her mother's iron tablets and had to get to a hospital within 18 hours or she could die. Wind and snow was blowing 50 -60 knots at the time. Tom Madsen said he would try to get her to Cold Bay, which he did. From there she was shuttled to a hospital and survived.

SENATOR TAYLOR moved HB 523 from committee with individual recommendations.

SENATOR ELTON objected to say that he is one of the few people in the state who never met Tom Madsen, but he wanted the committee to know that Stephanie Madsen was present. She had been a gracious host to him in Dutch Harbor when he first met her and a great public servant, serving on the North Pacific Fisheries Management Council, the Rural Development Council, and the State Chamber for the City of Cordova. He thanked her for attending.

CHAIRMAN COWDERY asked if there were any objections to moving the bill from committee. There were no further objections and it was so ordered.

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#SB348

SB 348-MOTOR VEHICLE REPAIRS

CHAIRMAN COWDERY announced SB 348 to be up for consideration.

SENATOR WARD moved to adopt the proposed committee substitute (CS) to SB 348, Version C, as the working document before the committee. There were no objections and it was so ordered.

MS. ANNETTE DEAL, staff to Senator Cowdery, said that the CS is a little different from the original bill. A major concern expressed during the last committee meeting was that the motor vehicle repair facility had to actually supply a warranty. The CS clarifies that the insurer has the responsibility to maintain the warranty and not the motor vehicle repair facility. Another concern was that insurance premium rates might increase if this type of legislation was enacted but the opposite seems to be true according to GAO reports. In almost every state that has enacted similar legislation, premiums have been reduced.

MS. DEAL pointed out that Alaska is one of ten states that doesn't offer some form of protection that relates to an insurance company's ability to mandate use of aftermarket crash parts. This bill also asks for consumer consent prior to the repair, which eight other states require. The second part of the bill calls for disclosure if aftermarket cars are used, which 28 states require. Consumers should have the right to decide whether aftermarket crash parts are used to repair their vehicles. They are best protected when their repair options are fully disclosed and they have the right to choose. Also, an insurer is protected from future losses.

MR. MICHAEL LESSMEIER, State Farm Insurance representative, said that he just received a copy of the CS and that it contains

changes that are important in terms of impact. He did not believe any other members of the industry had seen the new version. He urged members not to do anything that could handicap competition in the use of parts because competition is good for consumers. He explained that State Farm writes approximately 25% of the insurance premiums for automobiles in Alaska. State Farm Mutual is owned by its policyholders, so when State Farm Mutual believes it is doing better, it actually gives money back. It has returned millions of dollars to Alaskan policyholders. Ultimately, one of the big driving costs of automobile insurance is the cost of repairing automobiles, which has gone up significantly. To the extent that the cost of collision repair and property damage is higher, the insurance rates for those coverages are going to be higher.

MR. LESSMEIER noted competition with aftermarket parts serves two functions. In many instances, aftermarket parts are the equivalent of the parts from the original equipment manufacturer (OEM) but they are significantly cheaper. There is a secondary effect; when there is competition it drives down the cost of OEM parts as well. He commented:

The first point that I would make to the committee is please do not do anything that would interfere with competition. Unfortunately this bill as it is written does do something to interfere with competition.

The second point that I would like to make to the committee is that it is inaccurate to say that there is no guarantee or no warranty that currently exists under Alaska law. For many, many years, there have been guarantees and those guarantees are a part of the Unfair Claims Settlement Practices Act that exists in the regulations that have been adopted by the Division of Insurance. Essentially, what those regulations provide for - and they occur in several different places in the regulations in 3 AAC 26.080, which deals with standards for prompt, fair and equitable settlements of motor vehicle claims, subsection (f) says that if a person adjusting or settling a claim elects to have repaired a claimant's motor vehicle and chooses a specific facility for the repairs, that person shall guarantee the repairs and cause a damaged motor vehicle to be restored to its condition before the loss at no additional cost. So, we could argue about whether that guarantee is identical with the warranty that is set forth in your bill but, there is at least to that extent, a guarantee that already

exists in terms of the administrative regulations that have been on the books for many years in Alaska.

The third thing that I would like the committee to be aware of is at least the current practice of Alaska. If you were to go to State Farm's website, you would find that there is a guarantee for parts. You would also find this thing at the website and it says, 'Competition has lead to dramatic reductions in the costs of many original equipment manufacturers replacement parts and has caused significant improvements in their warranties. This results in higher quality at lower cost for the consumer.' And we think that is important. We certainly are willing to stand behind the parts that we use. We've told people that and we will do that in Alaska and I don't think there has been a problem in Alaska, at least State Farm has not had a significant problem that I know of.

MR. LESSMEIER cautioned that no matter who the insurer is, to the extent that costs of repairing vehicles rises, the consumer will pay through higher premiums. State Farm does not have any difficulty with the disclosure provision or with the warranty provision, although it is arguable as to whether it is broader than the guarantee already provided in Alaska law. He said some provisions of the bill are simply unworkable as written. For example, the bill has an immediate effective date and requires the insurer to provide written notice of the warranty available before issuing a renewing policy. Furthermore, Section 2, dealing with consent, will handicap competition. State Farm very rarely uses after-market parts in this state, but if they are being used, the consumer is being told and given a choice. There is a difference in price. State Farm believes that is fair.

MR. LESSMEIER said a second concern with Section 2 has to do with the warranty language. In his view it is not accurate. For example, the second sentence (page 2, lines 17-19) says, "A warranty applicable to these replacement parts is provided by the insurer rather than the manufacturer of your vehicle." He stated:

The truth is that the warranty in each of these instances would be provided not just by the insurer, but by the manufacturer of the aftermarket part as well. That's a subtle issue but to be accurate that should be included. The next sentence, though, is not accurate.

He said he looked at the federal Magnuson Moss Act and found that Section 2302(c) says:

No warrantor of a consumer product may condition his written or implied warranty of such product on the consumer's using it in connection with such product, any article or service, which is identified by brand, trade or corporate name.

MR. LESSMEIER said Section 2302(c) also says there are conditions under which the Federal Trade Commission can weigh that. He thought the sentence in the CS, to the effect that the use of a motor vehicle replacement part not made by the original equipment manufacturer may invalidate the remaining warranty as contemplated in federal law, is contrary to federal law. He explained when you couple the consent with statements like that, that are at best misleading, you handicap fair competition and that is State Farm's concern. He also noted that he didn't understand the basis for subsection (d) on line 24.

CHAIRMAN COWDERY asked if he was talking about third-party claims.

MR. LESSMEIER indicated that he was.

CHAIRMAN COWDERY commented that if a person was walking down the street with a Sony TV and fell and broke his arm, the insurance company would pay for the broken arm, but it wouldn't pay for the broken TV. He then said if, in the same situation the man carrying the TV was hit by a car, the medical costs would be covered and the TV would be repaired, and not with off brand parts.

MR. LESSMEIER responded that he didn't understand the provision that deals with a third-party claimant. He said perhaps the intent is to say someone who is injured and whose vehicle is damaged through the negligence of an insured should have their vehicle should repaired under the provisions of this bill.

MR. LESSMEIER said he also questions the definition of an aftermarket crash part. He said all of the testimony he has heard has focused on aftermarket crash parts, as opposed to what industry calls the hard parts or mechanical parts, yet the bill deals with all of the other parts. He said State Farm is not aware of any problems with the hard parts and conceded that State Farm's warranty does cover hard parts. He added there is some ambiguity in the administrative regulation as to what is meant by guarantee. He suggested that the law already contains protections and that the bill as drafted is problematic. He repeated that it will interfere with fair competition. He offered to work with committee members on the warranty issue and stand behind the products that State Farm uses.

CHAIRMAN COWDERY contended the owner of the vehicle should have

the right to determine which parts to use.

MR. LESSMEIER said the owner has that choice under existing practice. The only difference is that the premium is not based on that choice, it is based on something else. He repeated that State Farm believes that is far better for competition as long as there is fair disclosure. He then referred to the definition in subsection (e) on line 27, and said the definition of an aftermarket crash part does not require that the part be manufactured by the original equipment manufacturer; it only has to be supplied by the original equipment manufacturer. He said that could be read to mean that the original equipment manufacturer can outsource an aftermarket part, and as long as the original equipment manufacturer supplies the part, it is not considered to be an aftermarket crash part. He said in many instances these parts are manufactured by the very same facilities. State Farm believes the Legislature can accomplish what it wants to do by requiring disclosure and a warranty. State Farm urges the committee to restrict the bill to those requirements if it intends to go forward with this legislation.

CHAIRMAN COWDERY asked Mr. Lessmeier if he was saying that car manufacturers should manufacture all of their parts.

MR. LESSMEIER said he was not. He said this legislation will create a situation in which the original equipment manufacturer could obtain a part from the aftermarket manufacturer and that part would be treated differently just because the original equipment manufacturer obtained it. He said that many people have commented on the Avery case but what he found interesting was that no one has looked at the safety records of the automobile manufacturers and resulting lawsuits. He noted there have been far more lawsuits against automobile manufacturers about defective parts than against the aftermarket parts industry. He submitted the issue of the use of aftermarket parts, at least with respect to crash parts, is not an issue of safety. It is an issue of fit, finish, and those sorts of concerns. He said State Farm is willing to stand behind the parts it uses. He again cautioned that the ultimate losers in all of this to the extent that fair competition is inhibited will be the consumers.

SENATOR TAYLOR asked how many Alaskans were involved in the Avery class action lawsuit.

MR. LESSMEIER said he did not know but the effect of that decision is that State Farm has stopped using aftermarket parts in Alaska. The cost of State Farm's collision coverage and property damage coverage had been relatively stable in Alaska for the two years preceding Avery. After that, those costs increased significantly.

SENATOR TAYLOR said his question was how many Alaskans were included in the suit. He asked Mr. Lessmeier to get that information for the committee because members are talking about Alaskans and over 4 million people were involved in that class action lawsuit. He then asked whether State Farm has changed the wording of its policies since the Avery decision.

MR. LESSMEIER said he did not know that answer to that and that he does not claim to be an expert on the Avery lawsuit. He said he does know that State Farm has stopped using the parts that were identified in the Avery case. He does know what representations State Farm makes to consumers in Alaska. He said he believes there have been very few complaints in Alaska about the way State Farm repairs vehicles.

SENATOR TAYLOR commented that Mr. Lessmeier has testified three or four times that since the Avery decision, State Farm quit using aftermarket parts for the most part. He said that was not a company choice; State Farm was required to do that as a result of the lawsuit.

MR. LESSMEIER said that is untrue. He said it is his understanding that the Avery suit dealt with a finding of 25 or 26 different parts.

SENATOR TAYLOR said there were 25 parts at issue in the case. He then asked Mr. Lessmeier to elaborate on his comment about the Division of Insurance regulations on deceptive practices.

MR. LESSMEIER said he was referring to the Alaska insurance regulations (3 AAC - Section 26). He believed the entire scheme of those regulations was put in place around 1989. He said if there has been a problem in this area, people could go to the Division of Insurance.

SENATOR TAYLOR said the unfair settlement practice regulations were on the books during the period of time that the conduct occurred over which State Farm litigated the Avery case.

MR. LESSMEIER said those regulations were on the books but he doesn't think there was an issue as to whether the regulations were violated. He said it is important to understand that the Avery case did not involve a single incident of an individual coming forward and showing that an aftermarket part had been provided to that insured that was defective. The case involved a trial of expert witnesses, as he understands it, who were trying to show that a class of these parts were defective. He noted if one wanted to look at whether a specific regulation was violated because of no guarantee, he or she would have to look at the specific fact situation. He suggested there is not a history of that kind of activity in Alaska.

SENATOR TAYLOR read the following statements from the Avery case:

The plaintiffs claimed State Farm had a nationwide claims practice that uniformly specified cheaper non-OEM crash parts on damage estimates issued to its policyholders despite the fact that it knew that those parts were inferior in quality and condition and would not return the damaged vehicle to its pre-loss condition. State Farm deceived its policyholders in that it failed to inform them of the inferior quality of specified replacement parts. It was alleged that State Farm was able to succeed in this deception by representing that the inferior parts met high performance criteria and by offering a bogus guarantee of replacement of unsatisfactory non-OEM parts at no cost to the policyholder.

The court determined that in each policy, State Farm made the identical promise to pay for parts of like kind and quality that would restore the vehicle to its original, pre-loss condition.

SENATOR TAYLOR commented that State Farm had a policy in place of searching the net for cheaper parts, according to the court decision. He read further:

Plaintiffs presented evidence in the form of State Farm's own documents and testimony from past and current State Farm employees to show that State Farm knew that the non-OEM parts were inferior in terms of fit, quality, function, performance, corrosion resistance, appearance and safety. These parts were represented to policyholders as quality replacement parts.

There was also evidence State Farm's guarantee, that it would replace non-OEM parts at no cost to the unsatisfied policyholders upon demand, was bogus. If the aftermarket part was warranted by the part manufacturer, the policyholder was required to contact the manufacturer for relief. In most cases these were part manufacturers located outside the United States in Taiwan or another country. If the policyholder demanded replacement of the non-OEM part, a State Farm adjuster was required to investigate the claim and, if it was approved, an OEM replacement part was installed but the cost was charged to the policyholder as an indemnity payment.

SENATOR TAYLOR said that all of this discussion about warranty and the fact that a number of lawsuits have been brought against United States' manufacturers but not against aftermarket people raises the question of how one would sue somebody in Taiwan, which is why the court found that the warranty was bogus. The trial court also found that "State Farm misrepresented, concealed, suppressed, or omitted material facts concerning the non-OEM crash parts with the intent that its policyholders rely upon these deceptions in violation of CFA."

He said that is why he asked about the unfair settlement practices regulations on the books. He asked if CFA is a regulation or a standard within the industry.

MR. LESSMEIER said he did not know.

SENATOR TAYLOR commented that he couldn't believe that anyone could read the unfair settlement practices administrative regulations in the State of Alaska and the Avery case without coming away with the very strong impression that throughout the period of time that the regulation was in place, State Farm had a policy in place, according to the judgment of the court, that was specifically intended to violate that regulation, which is to conceal, suppress, and omit material facts. He noted the words frequently used by the court were "to defraud." Senator Taylor said he did not understand how State Farm could not have been in violation of unfair settlement practices because Mr. Lessmeier said there were some Alaskans involved in the lawsuit.

MR. LESSMEIER responded that he did not say that, Senator Taylor had made that statement.

SENATOR TAYLOR said Mr. Lessmeier said he did not know how many. He asked Mr. Lessmeier if he was saying there were no Alaskans.

MR. LESSMEIER said he did not know and was not aware of a single instance where the regulation discussed was violated. He said he would bet that instances of regulation violations, if any, would be few and far between. He added that it is one thing to quote from portions from an opinion and take statements out of context while it is quite another thing to look at both sides of an issue and understand the case that was tried and is on appeal. He said the issue before the committee right now is what to do in Alaska. He said it is hard to avoid the concept that what is important is to preserve fair competition and let the Division of Insurance do its job.

SENATOR TAYLOR said he only wanted to know if Alaskans were involved because the court concluded that State Farm's deceptive practices were neither specifically authorized nor in compliance

with laws in any of the 48 states. He said he did not know whether Alaska was excluded but the only states that were specifically excluded were Tennessee, Arkansas, Illinois and California. He said he is making the assumption that there must have been some Alaskans involved in this suit and that the court has found violations of a nature that would seem to be violations of that regulation. He noted that he and Mr. Lessmeier apparently differ in that interpretation.

MR. LESSMEIER thought Senator Taylor misunderstood the Avery decision. He explained that the Avery decision did not involve specific claimants. Rather, the aftermarket parts were tried as a whole, which is why he was saying one would have to look at what was happening in Alaska to an individual claimant.

CHAIRMAN COWDERY asked Mr. Lessmeier if he believes the public understands the difference between original and aftermarket parts.

MR. LESSMEIER said it is hard for him to answer that question on an individual basis but when an estimate is written, the aftermarket parts are identified. He noted there is an issue about consent and about disclosure. Disclosure can be accomplished without requiring consent.

TAPE 02-22, SIDE B

MR. LESSMEIER said that State Farm customers are told the choice is theirs. If the customer prefers parts other than those included in the estimates, the customer should notify the repairer. If use of other parts increases the repair cost, the customer is expected to pay the difference.

CHAIRMAN COWDERY said a person has a reasonable expectation when he or she buys insurance, especially on a new vehicle, that it will be repaired with new vehicle parts if damaged.

MR. LESSMEIER said he did not think that is an unreasonable expectation and that he believes the market works very well right now. He said he thinks the issue of the warranty is also important. He said although he cannot speak for the entire industry, he believes most members would be willing to work with the legislature to ensure a warranty as long as the issue of competition is not negatively impacted. He repeated that the losers in the Avery case are the consumers throughout the country who are not able to take advantage of the increased savings of using aftermarket parts. One result of the Avery case is that State Farm was not able to provide dividends over those years. He acknowledged that it is hard to say those dividends were exclusively due to the use of aftermarket parts. He said that State Farm agrees with the committee on the issue of disclosure

and would have no problem working out an agreement on the type of warranty required.

SENATOR ELTON said he views Section 1 of the CS as a quality guarantee set by industry and adopted by the state and Section 2 as a consumer awareness and choice provision. He said he understands Mr. Lessmeier's concern that the sentence of page 2, line 19, does not reflect the current law right now. He said he is prepared to vote to move the bill forward, but he would like Mr. Lessmeier to provide a citation to back up that concern. He then said that given that Section 1 is a quality assurance provision and that Section 2 gives consumers a choice, he fails to understand how setting a quality standard set by the original parts manufacturer is anti-consumer.

MR. LESSMEIER replied that State Farm is not arguing that provision. It is arguing the timetable for enforceability and saying that existing law already contains a guarantee.

SENATOR ELTON said if that is the case, this provision would merely replicate existing law. He then questioned how one can argue that Section 2, regarding consumer choice, is anti-competition because one of the basic thresholds of competition is that the consumer be aware of the choices available.

MR. LESSMEIER said State Farm is not arguing that consumer awareness is anti-competitive. He said his testimony was that State Farm supports fully informing consumers on this issue.

SENATOR ELTON asked why State Farm views the bill as anti-competitive.

MR. LESSMEIER said there are two issues. First, there is a difference between fair disclosure and misleading disclosure. He believes the disclosure required by subsection (c) is at best misleading and inaccurate because of the two sentences he referred to earlier. The second issue is the issue of consent. He said State Farm could not base a premium structure on the use of aftermarket parts if consent is involved. State Farm does not know the number of people who will choose an aftermarket part when there is no perceived savings; only experience will tell. He said that during the first hearing on this legislation, representatives from the aftermarket parts industry had grave concerns about that, which State Farm shares.

SENATOR ELTON asked how State Farm's premium structure could be affected if State Farm's practice is to do what the intent of the bill does.

MR. LESSMEIER said there is no perceived savings on the aftermarket part on an individual basis. That only occurs on a

collective basis. The bill takes away the ability of a company to use aftermarket parts and base its premium structure on that use. The consumer would make the choice to use aftermarket parts when he or she buys that policy. The consumer can still choose which part to use for a car repair, but the consumer will pay the difference in cost if he or she does not use an aftermarket part.

SENATOR ELTON said he understood Mr. Lessmeier to say in earlier testimony that this bill will codify State Farm's existing practice. He asked if there is anything in this bill that precludes State Farm from continuing its current practice and asked Mr. Lessmeier to direct him to that specific language in the bill.

MR. LESSMEIER said the default is different. The bill reads (page 2, line 5), "Except with the consent of the motor vehicle owner, a motor vehicle repair facility may not use an aftermarket crash part for repair work on a motor vehicle..." He said he interprets that to mean that State Farm cannot continue with its existing practice because it could not have a premium structure based on the use of aftermarket part with the customer paying the balance for an OEM part because if the consumer did not consent to that, everyone would be paying the additional cost of the OEM part.

SENATOR ELTON said he may be missing something in Mr. Lessmeier's argument, but he believes the language on line 5 does not preclude State Farm from telling consumers they will have to pay more if they do not consent to the use of an aftermarket part.

MR. LESSMEIER said if that were the understanding, State Farm would have fewer problems with CSSB 348(TRA).

SENATOR TAYLOR said Mr. Lessmeier continually used the phrase "existing practice" when explaining to Senator Elton the difference in choice. He asked,

Even following Avery, that's [State Farm's] existing practice is that you - if there is an aftermarket part that cost 40 percent less, that you're still, you're giving the choice to your customer and saying we'll either replace it with the aftermarket part, which is 40 percent cheaper, or we'll replace it with the manufacturer's part, which is more expensive but as our customer, you pay the difference. Is that your current practice?

MR. LESSMEIER said his understanding of current practice is that State Farm rarely uses aftermarket parts in Alaska.

SENATOR TAYLOR asked if, in the cases in which State Farm does

use them, that is the choice he was explaining to Senator Elton.

MR. LESSMEIER said that is his understanding.

SENATOR TAYLOR said he realizes the Avery case is on appeal, but State Farm has obviously changed some of its practices based on that case.

MR. LESSMEIER replied, "Senator Taylor, I think that you misunderstand the issue. The issue here is different than the issue that was litigated in Avery."

SENATOR TAYLOR said he understands the issue.

MR. LESSMEIER stated, "I'm not sure you do because I think the impression that you're trying to create is that existing practice for something like this is prohibited by Avery and that is not correct."

SENATOR TAYLOR said he understands Mr. Lessmeier's interpretation but he is not suggesting that it is prohibited by the Avery case. He said he was just asking if, in fact, where there is an aftermarket part that is less expensive, that the existing practice is to tell the customer that he can have the manufacturer's part but he must pay the difference.

MR. LESSMEIER said that is accurate in the context in which he made that statement, but he said that statement needs to be looked at in the complete context. He offered to provide members with a web address that describes State Farm's practices. He stated,

What that practice provides is if you authorize repairs by a repairer that we agree upon using new quality replacement parts that we include in our estimate, and we pay for those parts, then there is a guarantee. We talk about competition, we talk about standards, and we say the choice is yours. The final choice as to which parts will actually be used in repairs rests with you, the vehicle owner. If you prefer parts other than those included in our estimate, you should notify your repairer. Should use of those parts increase the repair cost, you will be expected to pay the difference. And I will confirm - I will confirm whether that is the existing practice although again, in Alaska we're not, to my knowledge, using these parts since Avery. I think in very rare instances the parts will be used and in those instances it's usually a situation of lack of availability of the OEM. And I don't think that there's

been a problem with this thing - with the use of these parts.

SENATOR TAYLOR commented that since Avery, State Farm has significantly changed its policy regarding aftermarket parts and their utilization in Alaska. He asked Mr. Lessmeier if that is a fair statement.

MR. LESSMEIER said he did not know when these changes were made but he thought they were because there are certain aftermarket parts that are not being used at all, and those are the parts that were identified in Avery.

SENATOR TAYLOR commented, "And that's because of the Avery case and the possible liability that may flow out of it if you continued the same practice you were continuing before."

MR. LESSMEIER said it is his understanding that it is because of the Avery decision.

CHAIRMAN COWDERY asked if anyone wished to testify. [There was no response.]

SENATOR TAYLOR moved CSSB 348(TRA) from committee with individual recommendations.

CHAIRMAN COWDERY announced that without objection, CSSB 348(TRA) moved from committee. He then adjourned the meeting at 4:15 p.m.
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