

HOUSE FINANCE COMMITTEE
January 25, 2006
1:38 P.M.

CALL TO ORDER

Co-Chair Meyer called the House Finance Committee meeting to order at [1:38:35 PM](#).

MEMBERS PRESENT

Representative Kevin Meyer, Co-Chair
Representative Bill Stoltze, Vice-Chair
Representative Mike Hawker
Representative Jim Holm
Representative Reggie Joule
Representative Mike Kelly
Representative Beth Kerttula
Representative Carl Moses
Representative Bruce Weyhrauch

MEMBERS ABSENT

Representative Mike Chenault, Co-Chair
Representative Richard Foster

ALSO PRESENT

Jennifer Baxter, Staff, Representative Jim Elkins; Aves Thompson, Director, Division of Measurement Standards and Commercial Vehicle Enforcement, Department of Transportation & Public Facilities

PRESENT VIA TELECONFERENCE

Dennis Bailey, Alaska Legal Services; Michael Bell, Director, Alaska Trucking Association, Anchorage

SUMMARY

HB 266 An Act relating to offenses and penalties for violation of vehicle weight limitations; prohibiting the use of a violation of a vehicle weight limitation for certain personal automobile insurance actions; amending Rule 43.6, Alaska Rules of Administration; and providing for an effective date.

CS HB 266 (FIN) was reported out of Committee with "no recommendation" and with new zero notes by the Department of Transportation & Public Facilities and the Department of Commerce, Community & Economic Development and a new indeterminate note by the Department of Law.

#HB266

HOUSE BILL NO. 266

An Act relating to offenses and penalties for violation of vehicle weight limitations; prohibiting the use of a violation of a vehicle weight limitation for certain personal automobile insurance actions; amending Rule 43.6, Alaska Rules of Administration; and providing for an effective date.

Vice Chair Stoltze MOVED to ADOPT work draft #24-LS0860\I, Bailey, 1/23/06, as the version of the bill before the Committee. He then proceeded to OBJECT for further explanation.

[1:41:16 PM](#)

JENNIFER BAXTER, STAFF, REPRESENTATIVE JIM ELKINS, explained that HB 266 proposes the first increase in penalties since the existing provisions were established in the 1970's. Existing provisions do not adequately inhibit commercial shipping companies and others from violating overweight vehicle limitations. The proposed modification establishes a graduated penalty for the amount of weight in excess of the limitations set by statute, regulation and/or permit.

Ms. Baxter noted that there are new offenses established to sanction shippers or carriers who commit or allow those working for them to commit a combined total of 12 or more violations during any twelve-month period. The maximum fine for the violations is \$10 thousand dollars. The modification is expected to result in commercial shippers and carriers being more rigorous toward compliance with overweight vehicle limitations.

Ms. Baxter pointed out another provision of the bill, which prohibits the use of overweight vehicle violations for use by insurers to adversely impact decisions related to providing private automobile insurance coverage for drivers. In the majority of cases, the driver has little knowledge or ability to limit the weight of the load placed on the vehicle they are assigned to drive. As a result, the company causes the violation and if cited, pays the fine imposed.

Currently, overweight vehicle violations are used by insurers as justification to take adverse action in relation to the personal automobile insurance coverage of truck drivers. Section #1 of the bill would prohibit that action. The legislation will protect drivers who do not know they are in violation and State roads from overweight vehicles. The Department of Transportation & Public Facilities,

Teamsters, and Horizon Shipping Lines support the bill and urge passage.

[1:42:54 PM](#)

Vice Chair Stoltze asked if the policy to not penalize was balanced so there would be no competitive advantage, violating the law.

Ms. Baxter understood it would bring forth a competitive balance and protects the driver's personal insurance coverage.

[1:43:47 PM](#)

Co-Chair Meyer pointed out that the Teamsters, Alaska Trucking Association and the Department of Transportation & Public Facilities support the legislation.

[1:44:14 PM](#)

Representative Kerttula inquired about the "indirect courtroom" amendment, the two third vote requirement. Ms. Baxter explained that was original language and had been removed, as it was redundant.

Vice Chair Stoltze interjected that it had been discussed in previous minutes. He noted that Representative Gruenberg had been satisfied with the proposed legal opinion.

[1:45:17 PM](#)

Ms. Baxter continued, the sponsor did not see the language as a useful remedy. Co-Chair Meyer noted that there was pending on-line testimony regarding that concern.

[1:45:51 PM](#)

Representative Kelly inquired if insurance companies support the legislation. Ms. Baxter did not know if they do support the current version.

[1:46:12 PM](#)

Representative Hawker asked which version of the bill, the Committee was discussing.

[1:46:45 PM](#)

Vice Chair Stoltze WITHDREW his OBJECTION to adopting the #24-LS0860\I version. There being NO further OBJECTION, it was adopted.

[1:46:59 PM](#)

Representative Hawker asked why the section addressing product violations had been removed.

[1:47:14 PM](#)

Ms. Baxter requested that be answered by other testifiers.

[1:47:29 PM](#)

AVES THOMPSON, DIRECTOR, DIVISION OF MEASUREMENT STANDARDS AND COMMERCIAL VEHICLE ENFORCEMENT, DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES, provided an overview of the sectional analysis for the proposed Committee version. [Copy on File].

He pointed out that:

- Section 1 prohibits the use of overweight vehicle violations by insurers to adversely impact decisions related to providing private automobile insurance coverage for drivers.
- Section 2 modifies existing law related to the penalty structure for overweight vehicle violations.

Mr. Thompson summarized, infrastructure protection was a major issue as repair and maintenance costs resulting from illegal damage to streets, roads and highways continue to escalate. The State needs to provide a sufficient deterrence to the loading of illegal overweight trucks.

The Department urges favorable consideration of HB 266.

[1:51:53 PM](#)

Representative Hawker questioned why the section addressing "chronic violators" had been removed. Mr. Thompson acknowledged that there had been a lot of debate regarding carrying that language forward. Part of the problem that results from overweight containers is the difference in the equipment used to transport them. He stated that weight concerns become a competitive issue. Mr. Thompson added, it is not in the role of the Department of Transportation & Public Facilities to interfere in the relationship between customers and carriers. That remains an industry problem.

[1:53:32 PM](#)

Representative Holm referenced the overweight penalty charges. He provided an example of purchasing a load of gravel in Fairbanks and if the legislation is passed that total charge will be huge. The concern with gravel weight

changes the results depending on the amount of moisture in the actual gravel. No one can know the actual weight and/or the overweight change.

[1:55:38 PM](#)

Mr. Thompson advised that the penalty structure had not been changed at the low end. The Department realizes that it would be easy to make a mistake. The flat fee of \$100 is reflective with the current amount. Rather than attempt to distinguish at the low level, consideration was made that concern. Weight allowances are spelled out in the Administrative Code.

[1:56:54 PM](#)

Representative Holm expressed his concern noting that he had driven trucks for many years. He maintained that the fine was too high in comparison to the actual profit made per load. He voiced concern with raising the rates at all on the lower end, stating that the "little guy will be affected".

[1:58:11 PM](#) [1:58:12 PM](#)

Mr. Thompson sympathized, however, did not want to create a complicated fine structure. He stressed that the Department wants to deter overweight operations. In the case of the gravel and dirt haulers, an opportunity is provided on site, to correct it.

[1:59:12 PM](#)

Representative Holm thought that would be problematic. The trucking industry is concerned with the amount it costs the individual. He stressed that the little companies have a difficult time supporting their work.

[2:00:22 PM](#)

Vice Chair Stoltze declared a conflict as he has family members in the trucking industry.

Vice Chair Stoltze inquired if there are scales at gravel fill and road sites. Mr. Thompson replied that usually there are, particularly in the larger gravel pits. On most of the State jobs, weight tickets are required.

[2:01:40 PM](#)

Representative Stoltze asked if there were scales at the Klondike pit in Chugiak.

Mr. Thompson noted that there are two different programs in the Division:

- Weights and measures; and
- Commercial vehicle enforcement.

He stated that typically, the Department does not go into the gravel pit to enforce the weight limits. Some vehicles are stopped if it appears there is a problem.

Vice Chair Stoltze reiterated his query if there were scales at the above-mentioned locations. Mr. Thompson said he would check into that.

[2:03:11 PM](#)

In response to another question by Vice Chair Stoltze, Mr. Thompson explained the manner used to determine weight. Sometimes, it is obvious if the truck axel bounces or the way a truck moves down the highway.

[2:03:47 PM](#)

Mr. Thompson responded to Vice Chair Stoltze's question, noting that he has worked during his years with the State in two departments while addressing weight measurement standards: the Department of Commerce before that function merged & moved to the Department of Transportation & Public Facilities in 1997. He thought that the current Division has operated very efficiently over the past nine years. Concluding, he stated he has worked in trucking regulations for nearly 23 years.

[2:05:09 PM](#)

Mr. Thompson spoke to the trooper assigned to their Division through a federal funding provision under the Motor Safety Assistance Program. The Division determined, it would be best during that transitional period, moving from the Department of Public Safety to the Department of Transportation & Public Facilities that there be a trooper presence. The trooper presence has continued and the Division still pays that salary from federal funding. The relationship with Department of Public Safety has proved to be effective.

[2:06:08 PM](#)

On a different note, Vice Chair Stoltze asked if Mr. Thompson had written a letter to Dear Abby. Mr. Thompson replied he had.

[2:07:28 PM](#)

Representative Holm asked if any owner/operators had been consulted regarding the bill. Mr. Thompson commented that the legislation was proposed last year. He had spoken with a number of owner/operators individually, receiving a mixed reaction. There is no paper trail.

Representative Holm asked the number of owner/operators that run businesses up North. Mr. Thompson did not know that number but clarified that they typically are leased to a carrier and fall into a category where the company pays for the citations.

[2:08:52 PM](#)

Representative Holm noted that the State does not own any highway areas on military facilities. Mr. Thompson thought that was correct.

Representative Holm asked why the Department had employees on those military installations, weighing trucks. Mr. Thompson did not know that they did. Representative Holm asserted that they do. He offered to talk later to Mr. Thompson about that.

[2:10:46 PM](#)

Mr. Thompson was aware that the State provides driver safety inspections at the gates of military installations, in response to a U.S. military request. He mentioned a number of situations encountered with drivers smoking dope. He acknowledged that he did not know about the use of scales on those bases.

Mr. Thompson commented on the State moving into a bidding process; he pointed out that there is nothing in that process, which allows vehicles to run "overweight" on the highways. Representative Holm pointed out that they are not on the highways but on federal property.

Co-Chair Meyer recommended that Representative Holm and Mr. Thompson follow-up on that concern.

[2:12:10 PM](#)

Representative Holm thought that it could directly affect someone if they received a ticket or not. He wanted to guarantee that there was no impropriety.

[2:12:39 PM](#)

MICHAEL BELL, (TESTIFIED VIA TELECONFERENCE), DIRECTOR, ALASKA TRUCKING ASSOCIATION (ATA), ANCHORAGE, spoke in support of the legislation. He stated that their Board of

Directors voted unanimously to support HB 266 with the amendments as written. The bill would address driver citation issues dealing with overweight violations.

2:15:51 PM

Representative Kelly inquired if the ATA position had changed since the memo presented to Representative Gatto last year. Mr. Bell responded that last year, the ATA was not in support of the bill in its' entirety, which had changed with the current version.

2:17:06 PM

DENNIS BAILEY, (TESTIFIED VIA TELECONFERENCE), ALASKA LEGAL SERVICES, JUNEAU, offered to answer questions regarding the two-thirds vote issue. Representative Kerttula noted that she had read the memo and was satisfied.

2:17:58 PM

Vice Chair Stoltze MOVED to adopt the new fiscal notes. There being NO OBJECTION, the new notes were adopted.

Vice Chair Stoltze MOVED to REPORT CS HB 266 (FIN) out of Committee with individual recommendations and with the accompanying three new notes. Representative Hawker OBJECTED to correct the dates moved on the fiscal notes and then WITHDREW his OBJECTION. There being NO further OBJECTION, it was so ordered.

CS HB 266 (FIN) was reported out of Committee with a "no recommendation" and with new zero notes by the Department of Transportation & Public Facilities and the Department of Commerce, Community & Economic Development and a new indeterminate note by the Department of Law.

#

ADJOURNMENT

The meeting was adjourned at 2:19 P.M.