

**ALASKA STATE LEGISLATURE  
SENATE RESOURCES STANDING COMMITTEE**

March 21, 2005

3:40 p.m.

**MEMBERS PRESENT**

Senator Thomas Wagoner, Chair  
Senator Ralph Seekins, Vice Chair  
Senator Ben Stevens  
Senator Fred Dyson  
Senator Bert Stedman  
Senator Kim Elton  
Senator Gretchen Guess

**MEMBERS ABSENT**

All members present

**OTHER MEMBERS PRESENT**

Senator Donny Olson

**COMMITTEE CALENDAR**

SENATE BILL NO. 85

"An Act repealing the ban on the use of certain off-road vehicles within five miles of the right-of-way of the James Dalton Highway; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 144

"An Act relating to regulations, definitions, and permits under the emission control permit program; and providing for an effective date."

MOVED CSSB 144(RES) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 85

SHORT TITLE: OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

SPONSOR(s): SENATOR(s) SEEKINS

|          |     |                                 |
|----------|-----|---------------------------------|
| 01/31/05 | (S) | READ THE FIRST TIME - REFERRALS |
| 01/31/05 | (S) | TRA, RES                        |

|          |     |                                  |
|----------|-----|----------------------------------|
| 02/08/05 | (H) | TRA AT 1:30 PM CAPITOL 17        |
| 02/08/05 | (S) | Scheduled But Not Heard          |
| 02/15/05 | (S) | TRA AT 1:30 PM BUTROVICH 205     |
| 02/15/05 | (S) | Heard & Held                     |
| 02/15/05 | (S) | MINUTE(TRA)                      |
| 02/17/05 | (S) | TRA AT 1:30 PM BUTROVICH 205     |
| 02/17/05 | (S) | Moved SB 85 Out of Committee     |
| 02/17/05 | (S) | MINUTE(TRA)                      |
| 02/18/05 | (S) | TRA RPT 3DP 1DNP                 |
| 02/18/05 | (S) | DP: HUGGINS, COWDERY, THERRIAULT |
| 02/18/05 | (S) | DNP: FRENCH                      |
| 03/21/05 | (S) | RES AT 3:30 PM BUTROVICH 205     |

BILL: SB 144

SHORT TITLE: EMISSION CONTROL PROGRAM PERMITS/REGS  
 SPONSOR(s): RESOURCES

|          |     |                                 |
|----------|-----|---------------------------------|
| 03/16/05 | (S) | READ THE FIRST TIME - REFERRALS |
| 03/16/05 | (S) | RES, FIN                        |
| 03/21/05 | (S) | RES AT 3:30 PM BUTROVICH 205    |

**WITNESS REGISTER**

BRIAN HOVE  
 Staff to Senator Seekins  
 Alaska State Capitol  
 Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced SB 85.

THOR STACEY  
 Weisman AK  
**POSITION STATEMENT:** Opposed SB 85.

MARY JACKSON  
 Staff to Senator Wagoner  
 Alaska State Capitol  
 Juneau, AK 99801-1182  
**POSITION STATEMENT:** Introduced SB 144 for the sponsor.

JOHN KUTERBACH, Manager,  
 Air Permits Program  
 Department of Environmental Conservation  
 410 Willoughby  
 Juneau, AK 99801-1795  
**POSITION STATEMENT:** Commented on SB 144.

**ACTION NARRATIVE**

**CHAIR RALPH SEEKINS** called the Senate Resources Standing Committee meeting to order at [3:40:49 PM](#). Senators Elton, Guess, Stedman, Dyson and Vice Chair Seekins were present.

**SB 85-OFF-ROAD VEHICLE USE ON DALTON HIGHWAY**

CHAIR SEEKINS announced SB 85 to be up for consideration.

BRIAN HOVE, Staff to Senator Seekins, sponsor of SB 85, read the sponsor statement. He said the Dalton Highway is the only road north of the Yukon River. Current law bans the use of off-road vehicles within five miles of the highway's right of way. Starting at mile 57, the Yukon River crossing, the Dalton Highway extends 357 miles north to the Arctic Ocean. This law essentially prohibits access for average Alaskans to recreate on public land that would otherwise be open to their use. SB 85 removes the prohibition on the use of off-road vehicles within the five-mile corridor of the Dalton Highway. It provides 12 months for owners to work on land use plans to prepare for it. In accordance with those plans, campgrounds, trails and public use cabins could be built while protecting sensitive areas. The Bureau of Land Management (BLM) already has turnouts, restrooms and visitor centers constructed to accommodate increased public interest in this part of Alaska, which is attracting more and more visitors.

[3:44:34 PM](#)

SENATOR GUESS asked the definition of off-road vehicles.

MR. HOVE replied snow machines and ATVs. Snow is on the ground nine months out of the year up there and trappers have their trap lines.

CHAIR SEEKINS said off-road vehicle is not defined in statute, but statute does say:

Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to off-road vehicles necessary for oil and gas exploration, development, production or transportation, a person who holds a mining claim in the vicinity of the highway who must use the land to be able to get there and the use of snow machine travel across the highway corridor from land outside the corridor to access land outside the

other side of the corridor. This paragraph does not permit the use of snow machines for any purpose within the corridor if the use begins or ends within the corridor or within the right-of-way of the highway or if the use is for travel within the corridor that is parallel to the right-of-way of the highway or if the use is for travel within the corridor that is parallel to the right-of-way of the highway.

He said the highway corridor means lands within five miles of the highway right-of-way. So, there's a 10-mile stretch that you can't unload the snow machine off your truck and use it anywhere in there.

The landowners are primarily the BLM and Department of Natural Resources (DNR) and he asked them if 12 months would be a reasonable time for them to put in place the land use plans they have had or that they have contemplated having eventually. Those would restrict types of vehicles and time of year they could be used like they do everywhere else in the United States on public lands.

[3:47:12 PM](#)

SENATOR BEN STEVENS arrived.

[3:48:15 PM](#)

SENATOR GUESS asked if federal or state law requires them to do the land use plan.

SENATOR SEEKINS replied that he didn't know that the BLM is required to do that under federal law, but they have the authority and have had their draft plan since 1991.

SENATOR DYSON asked what the history behind the prohibition is. No one wants to see raping and pillaging of the country because of open access.

SENATOR SEEKINS replied that the Dalton Highway was not a secondary public highway until some time after its construction, but it was open to the public. He has not been able to find a single document that indicates what the intent was or any kind of an agreement between parties.

It was simply meant at that time, from what we can tell, to protect the environment so that, again, we could perhaps see land use plans that went into effect

to be able to keep from having, as you said, the rape and pillage of that land, which no one wants to see.

[3:53:18 PM](#)

MR. HOVE presented a map of the Dalton Highway.

CHAIR SEEKINS presented a slide show of his trip up the Dalton Highway.

[4:04:12 PM](#)

End of slide show.

[4:04:49 PM](#)

SENATOR GUESS asked if Alyeska Pipeline Company supports SB 85 and does it have security concerns.

CHAIR SEEKINS said Alyeska understands that the whole pipeline has security concerns. If more people are going to be up there, Alyeska has said it wants the state's help in addressing security concerns.

[4:06:50 PM](#)

CHAIR WAGONER arrived and took the gavel from Chair Seekins.

[4:07:53 PM](#)

SENATOR SEEKINS said it's time to plan for when the public uses the lands along the Dalton Highway. He has no intention of opening up the corridor to all-terrain trucks, etc.

[4:09:38 PM](#)

THOR STACY, Weisman Village, said he is a registered guide, trapper and life-long Alaskan. He believes in the use of non-renewable and renewable resources. He stated:

First of all, I want to dispel some myths on SB 85 that have been presented in its favor. For the record, I'm opposed to SB 85. First of all, the perception that a large part of Alaska would be opened up that has been 'locked up'. As you can see from the land use map...most of the land north of the Yukon is federal refuges, parks and preserve. This will, by federal statute, not be opened up to off-road vehicle use - thus creating intensive use on state DNR land that they have already discussed building on, which they have a plan for.

He said that this would be a unnecessary law, because people are already using off-road vehicles and there is no enforcement. There are already legal accesses for mineral exploration, private lands beyond the corridor, going through the corridor from one side to another on snow machine and others.

MR. STACY said further:

There is a perception that the land is unused and an underutilized resource. That's also incorrect. Right now our game population on state lands - and I'm familiar with it as a hunting guide...I use these as a trapper.... We're having a hard year this year. We're having a bad time for moose. We're at maximum sustained yield. We have a very low density moose population in the Yukon flats and the mountains of the Brooks Range - averaging .1 to .2 moose per square mile. It's a very different part of the world than the sub-arctic parts of Alaska.

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He said another myth is that there is extensive infrastructure in place to support expanded use. Existing pullouts are there for heavy industrial traffic to support commercial infrastructure on the North Slope. Recreation vehicles will cause a serious hazard for commercial traffickers.

[4:14:21 PM](#)

MR. STACY said four caribou herds will be accessed by this road currently, they are all depleted requiring intensive management by the state, which is in violation of its constitutional mandate of sustained yield. Unit 16 has a high predator harvest to reestablish equilibrium in nature. Currently there are non-resident seasons for moose or caribou in those areas because there is a tier system of local subsistence. He did not think it would take much stretch of the imagination to see the impacts on all three of the caribou herds that cross the road.

[4:15:54 PM](#)

He pointed out that access is tool that can be used to manage remote resources. There is one game warden at Coldfoot for enforcement of the entire Brooks Range, the foothills and north to the Arctic Coast. He is competent, but he won't be able to respond to the additional access and use problems. SB 85 needs a fiscal note because enforcement will cost the state more than it does now.

[4:18:07 PM](#)

There are no trails or off-road vehicle tracks in the wilderness, although there are mining trails that were put in 100 years ago. He said the tracks from an off-road vehicles will be left for over 100 years. "The impact at first will be small, but in time it won't be what it was."

Right now it is legal to use airplanes, horses, boats, walking; there is no restriction on reasonable access. The system protects the resource. People come to Weisman for the wilderness and the state doesn't need to spend money to maintain a slow deterioration.

SENATOR SEEKINS asked where his trap line is.

[4:21:59 PM](#)

MR. STACY outlined several of his trails.

SENATOR SEEKINS asked him if he accessed it with a snow machine.

MR. STACY replied yes.

SENATOR SEEKINS asked him if he knew that is illegal.

MR. STACY replied that it's not illegal for subsistence activities.

[4:22:42 PM](#)

SENATOR SEEKINS said it is illegal according to state law.

MR. STACY responded that subsistence activities are not allowed with a snow machine on state land.

SENATOR SEEKINS said that he is trying to correct for reasonable access so people are not breaking the law.

CHAIR WAGONER closed the hearing due to no phone lines and said he would hold the bill.

**SB 144-EMISSION CONTROL PROGRAM PERMITS/REGS**

CHAIR THOMAS WAGONER announced SB 144 to be up for consideration.

[4:28:15 PM](#)

SENATOR SEEKINS moved CSSB 144(RES), Version F. There were no objections and it was so ordered.

MARY JACKSON, staff to Senator Wagoner, said the discussion on this bill has been around its definitions on page 6. "Stationary source" has the meaning given in 40 C.F.R. 51.66 and SB 144 inserts "or 40 C.F.R. 70.2, depending on the context in which the term is used." The department did not feel comfortable working with the previous definition. It was felt that the most reasonable way to clarify it was to reference federal definitions. She pointed out that SB 144 has a zero fiscal note.

[4:30:36 PM](#)

SENATOR GUESS asked about the impact and purpose of the July 1, 2005 effective date.

MS. JACKSON deferred the answer to the department.

[4:31:01 PM](#)

JOHN KUTERBACH, Manager, Air Permits Program, Department of Environmental Conservation (DEC), explained that two years ago Governor Murkowski started to reform Alaska's air permit programs to better meet the needs of our state.

The reforms were intended to make Alaska's air permit programs more consistent with the underlying federal requirements. Consistency with federal law would allow Alaska to take advantage of the flexibility afforded by changes in federal law and to follow the guidance and interpretations used elsewhere in the nation. We have completed the necessary regulations and are ready to submit them for federal approval. However, we found several places where the statute did not quite meet federal requirements.

We need to require operating permits for groups of stationery sources. We need the definitions of 'emissions unit' and 'stationery source' to include both the federal construction permit and the federal operating permit definitions. And we need to insure that all permittees pay their assessed emission fees. This bill makes these technical corrections and allows the department to revoke a minor permit when a permittee refuses to pay their fees.

[4:32:41 PM](#)

MS. JACKSON repeated Senator Guess's question about the July 1, 2005 effective date.

MR. KUTERBACH replied that he wasn't certain, but suspected that it might have to do with the fact that the permitting fees have a split in their fund source that occurs at the beginning of next fiscal year.

CHAIR WAGONER said that Steve Mulder from the Department of Law could answer further legal questions. There was no further testimony.

[4:33:54 PM](#)

SENATOR DYSON moved to pass CSSB 144(RES) from committee with individual recommendations. There were no objections and it was so ordered.

CHAIR WAGONER adjourned the meeting at [4:34:20 PM](#).