

**ALASKA STATE LEGISLATURE  
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 6, 2008

1:05 p.m.

**MEMBERS PRESENT**

Representative Kyle Johansen, Chair  
Representative Mark Neuman, Vice Chair  
Representative Wes Keller  
Representative Mike Doogan

**MEMBERS ABSENT**

Representative Anna Fairclough  
Representative Craig Johnson  
Representative Woodie Salmon

**COMMITTEE CALENDAR**

CS FOR SENATE BILL NO. 78(JUD)

"An Act relating to the installation of window tinting in automobiles."

- MOVED CSSB 78(JUD) OUT OF COMMITTEE

HOUSE BILL NO. 372

"An Act relating to highway design flexibility and to the assumption by municipalities of certain duties related to highways."

- HEARD AND HELD

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 283

"An Act designating the Alaska Highway and a portion of the Richardson Highway as the Purple Heart Trail."

- HEARD AND HELD

HOUSE BILL NO. 275

"An Act relating to tires with retractable studs."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 78

SHORT TITLE: MOTOR VEHICLE WINDOW TINTING  
SPONSOR(S): SENATOR(S) FRENCH

02/09/07 (S) READ THE FIRST TIME - REFERRALS  
02/09/07 (S) TRA, JUD  
03/06/07 (H) TRA AT 1:30 PM CAPITOL 17  
03/06/07 (S) Moved SB 78 Out of Committee  
03/06/07 (S) MINUTE(TRA)  
03/07/07 (S) TRA RPT 1DP 3NR  
03/07/07 (S) DP: KOOKESH  
03/07/07 (S) NR: WIELECHOWSKI, WILKEN, COWDERY  
03/14/07 (S) JUD AT 1:30 PM BELTZ 211  
03/14/07 (S) Heard & Held  
03/14/07 (S) MINUTE(JUD)  
03/22/07 (S) JUD AT 3:30 PM BUTROVICH 205  
03/22/07 (S) Heard & Held  
03/22/07 (S) MINUTE(JUD)  
03/29/07 (S) JUD AT 3:30 PM BUTROVICH 205  
03/29/07 (S) Heard & Held  
03/29/07 (S) MINUTE(JUD)  
04/20/07 (S) JUD AT 1:30 PM BELTZ 211  
04/20/07 (S) -- MEETING CANCELED --  
04/23/07 (S) JUD AT 1:30 PM BELTZ 211  
04/23/07 (S) Moved CSSB 78(JUD) Out of Committee  
04/23/07 (S) MINUTE(JUD)  
04/25/07 (S) JUD RPT CS 1DP 2NR SAME TITLE  
04/25/07 (S) DP: FRENCH  
04/25/07 (S) NR: WIELECHOWSKI, MCGUIRE  
05/03/07 (S) TRANSMITTED TO (H)  
05/03/07 (S) VERSION: CSSB 78(JUD)  
05/04/07 (H) READ THE FIRST TIME - REFERRALS  
05/04/07 (H) TRA, JUD  
03/06/08 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HB 372

SHORT TITLE: HIGHWAY DESIGN FLEXIBILITY/MUNICIPALITIES  
SPONSOR(S): REPRESENTATIVE(S) BUCH

02/19/08 (H) READ THE FIRST TIME - REFERRALS  
02/19/08 (H) TRA, FIN  
03/06/08 (H) TRA AT 1:00 PM CAPITOL 17

BILL: HB 283

SHORT TITLE: PURPLE HEART TRAIL  
SPONSOR(S): REPRESENTATIVE(S) GARDNER, LYNN

01/04/08 (H) PREFILE RELEASED 1/4/08

01/15/08 (H) READ THE FIRST TIME - REFERRALS  
01/15/08 (H) TRA, FIN  
02/08/08 (H) SPONSOR SUBSTITUTE INTRODUCED  
02/08/08 (H) READ THE FIRST TIME - REFERRALS  
02/08/08 (H) TRA, FIN  
03/06/08 (H) TRA AT 1:00 PM CAPITOL 17

**WITNESS REGISTER**

SENATOR HOLLIS FRENCH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as the sponsor of SB 78.

RODNEY DIAL, Lieutenant, Deputy Commander  
A Detachment  
Division of Alaska State Troopers  
Department of Public Safety  
Ketchikan, Alaska

**POSITION STATEMENT:** Supported SB 78.

MATT BLOODGOOD, Sergeant  
Traffic Unit  
Anchorage Police Department  
Anchorage, Alaska

**POSITION STATEMENT:** Provided information regarding tinted windows during hearing on SB 78.

ANDREW FELT, Employee  
Auto Trim Design  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified that SB 78, as currently written, would put his employer out of the window tinting business.

BOB BOSWOOD, Owner  
Auto Trim Design  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified that passage of SB 78 would eliminate two full-time positions in his business.

REPRESENTATIVE BOB BUCH  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified as sponsor of HB 372.

JEFF OTTESEN, Director  
Division of Program Development

Department of Transportation & Public Facilities (DOT&PF)  
Juneau, Alaska

**POSITION STATEMENT:** Testified the Department of Transportation & Public Facilities is mostly comfortable with HB 372, but still has several concerns.

FRANK MCQUEARY, President  
Anchorage Road Coalition  
Anchorage, Alaska

**POSITION STATEMENT:** During hearing on HB 372, testified about the benefits of Context Sensitive Solutions (CSS).

JIM ISTURIS, Staff  
to Representative Berta Gardner  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of Representative Berta Gardner, co-prime sponsor of SSHB 283.

RON SIEBELS  
Military Order Of The Purple Heart  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of SSHB 283.

#### **ACTION NARRATIVE**

**CHAIR KYLE JOHANSEN** called the House Transportation Standing Committee meeting to order at [1:05:46 PM](#). Representatives Johansen, Neuman, Keller and Doogan were present at the call to order.

#### SB 78-MOTOR VEHICLE WINDOW TINTING

[1:06:15 PM](#)

CHAIR JOHANSEN announced that the first order of business would be CS FOR SENATE BILL NO. 78(JUD) "An Act relating to the installation of window tinting in automobiles."

SENATOR HOLLIS FRENCH, Alaska State Legislature, sponsor of SB 78, testified there are three reasons why he believes this bill is necessary. First is for driver safety. Windows too darkly tinted can throw off a driver's depth perception, making the driver unsafe. Second is pedestrian and bicycle safety. Windows tinted too darkly make it impossible for a pedestrian or bicyclist to make eye contact with the driver and can lead to

accidents. Third, and perhaps most important, is for officer safety. Windows too darkly tinted do not allow public safety officers to see inside the car when approaching it for a traffic stop, and what is inside that car can mean life or death to the officers.

SENATOR FRENCH pointed out that it is currently against Alaska law for a driver to operate a vehicle on the road with windows that are too darkly tinted. However, it is not illegal for someone to install that tint that is too dark. He presumed the committee will hear from individuals who do this for a living. He said it is his belief that their complaint is, in essence, with the state law. That is, these individuals would like the law to be repealed and to have much looser regulations and statutes with respect to the amount of tint on a window. In any event, whatever level the committee eventually chooses for the level of tint, the installers should be required to comply with it, and that is what this bill asks them to do. It is the installers who are in the best position to apply the correct level of tint, thus protecting the consumer and the other public policy interests mentioned earlier.

REPRESENTATIVE NEUMAN inquired how this will be addressed for vehicles brought to Alaska with window tinting from less restrictive states, as often happens with members of the military.

SENATOR FRENCH responded the bill is aimed at those businesses that install window tint for a living. He said he is not taking aim at the military members coming to Alaska. Nevertheless, when someone moves to Alaska, he or she becomes subject to Alaska's laws. The idea is not to burden military members or other people moving to Alaska. The law with respect to window tinting is a "fix-it ticket", he explained, which means the ticket goes away if the window tinting is removed. So, there is a mechanism in place to handle individual citizens. Senator French said he thinks businesses should follow the law like everyone else and not be allowed to harm a consumer by installing tint that is too dark and which will then leave the cost of removal on the consumer.

REPRESENTATIVE NEUMAN asked whether the bill includes a transition time for members of the military coming to Alaska, such as not needing to have the tint removed for members who will be in the state for a short period of time.

SENATOR FRENCH replied no, the bill applies to professional window tint installers. State law enforcement officers could address the reasonable application of traffic laws on citizens.

CHAIR JOHANSEN understood the bill would apply to professional tint installers holding a business license. He presumed it would be up to law enforcement agencies to get any members of the public who installed the tint by themselves.

SENATOR FRENCH answered someone gets caught when he or she is out on the road, at which time a fix-it ticket would be issued requiring the tint be peeled back to state law specifications. In the course of giving a ticket and conversing with the driver, an officer often finds out which shop installed the tint. This bill would allow the officer to make a visit to that shop and issue a citation if the installer does not cease installing tint that is too dark. Failure to do that would result in a citation, not jail.

CHAIR JOHANSEN inquired whether the bill would extend to stores that sell [do-it-yourself] tinting kits.

SENATOR FRENCH responded he did think about going wider, but he thought this is the most efficient application of the law and the most efficient use of officers' time. There are shops that do a large volume of business installing tint for a living, and it seemed that asking those individuals to comply with state law like everybody else was the most logical place. Possession of window tint is not likely to become a crime under state law, he said.

CHAIR JOHANSEN surmised the impetus behind the bill is that this is not being enforced or it is a challenge for law officials to enforce it on individual automobiles.

SENATOR FRENCH replied that 1,200 tickets were issued in Anchorage in 2006. Having the ability to go to the individuals installing the majority of those too-dark window tints would be the more efficient.

REPRESENTATIVE KELLER maintained the bill reads like it would apply to anybody that installs tint, not just a business.

SENATOR FRENCH answered the bill would apply to a person caught in the act in the garage. However, he said, he believes the likelihood of that crime coming to the attention of police is almost vanishingly small. What can be found out by issuing

tickets to drivers and checking the yellow pages is who installs tint for a living. This law was requested through a community council meeting at which citizens stated they felt unsafe because cars with illegally dark windows were driving around their neighborhood. The citizens questioned why it is legal to install tint that is darker than state law allows and asked him if something could be done, he reported.

CHAIR JOHANSEN inquired whether someone could be compelled to say where his or her tinting was done.

SENATOR FRENCH responded everyone has the Fifth Amendment right not to answer.

REPRESENTATIVE NEUMAN stated that the rub with him is the unaware individual who becomes a criminal by committing the "crime of improper installation" of window tinting. He asked what the penalty is for this.

SENATOR FRENCH replied it is meant to be a violation and the maximum penalty is a \$300 fine. No one will go to jail for window tinting.

REPRESENTATIVE NEUMAN inquired whether a fix-it ticket will generally be given rather than a fine.

SENATOR FRENCH explained the fix-it ticket is for the driver on the street operating a vehicle with windows too darkly tinted. Installing the tint is another thing and the fix-it ticket would not apply.

REPRESENTATIVE NEUMAN asked how many companies are doing this.

SENATOR FRENCH answered there are at least two companies in Fairbanks and he thinks there are also companies in Anchorage. In further response to Representative Neuman, Senator French said he would get back to the committee on the number of companies in the state that do tinting.

CHAIR JOHANSEN commented that probably any body shop in Ketchikan would install window tint.

SENATOR FRENCH guessed a lot of detailers also do it, however there are a few shops that specialize in it.

REPRESENTATIVE KELLER contended that on the scale of things that can be made illegal, he is wondering why this one. Does a trooper carry equipment that tests the window tinting, he asked.

SENATOR FRENCH responded there is a tintometer. He acknowledged this is not the most serious bill that will ever be taken up, but pedestrians get hit, bicycles get run over, and a police officer was shot in the chest with an assault rifle from behind a window tinted so dark the officer could not see it coming. From time to time something horrible happens on the road due to windows that are too darkly tinted.

REPRESENTATIVE NEUMAN inquired whether a public safety vehicle with tinted windows would be immune from this.

SENATOR FRENCH replied he does not know and thinks there is an exception in regulation, not statute. He deferred to the law officers.

RODNEY DIAL, Lieutenant, Deputy Commander, A Detachment, Division of Alaska State Troopers, Department of Public Safety, presented a PowerPoint review of state and federal laws regarding window tint. He said under Alaska law: a front windshield may have a five-inch strip of tint, and this "eyebrow" has no restrictions as long as it is not mirrored; the front driver and passenger side windows must allow 70 percent Visible Light Transmission (VLT); all other rear windows must allow 40 percent VLT, with exemptions for buses, limousines, multi-purpose vehicles, and medical needs. He said he thinks this provision is what would exempt the special-use police vehicles. He noted that in his 18 years as a trooper he has never seen a law enforcement car that has had after-market window tinting applied to it.

LIEUTENANT DIAL explained that federal law primarily sets the standard for vehicle manufacturers. States are allowed to set their own standards, and most state standards are pretty close to the federal standards. Federal law specifies a minimum of 70 percent VLT for the windshield and the driver's and passenger's side windows, but it does not specify any tinting requirements for any other windows. Although laws change constantly and vary among counties and cities, at least 13 other states have similar or more restrictive law than Alaska, about 90 percent of the Canadian provinces have a similar or more restrictive law. About five states allow 50 percent tint on the front side windows, and about 31 states range from about 20 percent to 40

percent VLT for the [front] side windows. Generally, he said, the hotter the climate, the greater the window tint allowed.

LIEUTENANT DIAL noted that driving with tinted windows at night is essentially the same as driving with sunglasses on. General purpose sunglasses range from about 15 percent to 40 percent VLT. There are some would like Alaska's tinted window law to allow tints that only allow 30 percent VLT, he related. Under Alaska law tinting material for cars must be either green, grey, bronze, or smoke, and cannot be reflective or mirrored.

REPRESENTATIVE NEUMAN asked why mirrored is not allowed.

LIEUTENANT DIAL answered he does not know, but he guesses it is because of the distraction that could be posed to other drivers on a sunny day.

LIEUTENANT DIAL addressed the question of, Do tinted windows really cause problems? He recounted the story of a police officer shot by a murder suspect inside a car with tinted windows who the officer was unable to see. Allowing increased tint in Alaska would prevent officers from having the ability to defend themselves initially from someone inside the car presenting a danger. He related an example in Chicago where police officers unable to see clearly through a tinted window mistakenly shot a passenger they thought had a gun, but it was a cell phone. Even moderate tint makes it extremely difficult to see into cars in low light conditions, he explained.

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LIEUTENANT DIAL said there are numerous examples of criminals who were not identified because witnesses could not see the driver through tinted windows. Additionally, collisions with motor vehicles and pedestrians have been blamed on poor visibility due to tinted windows. He cited other examples of problems: tinted windows can hamper police in determining whether a vehicle's occupants are wearing seat belts, have their children properly protected in car seats, or are drinking out of an open container; heavy tints may also prevent other motorists from viewing the road ahead by looking through the cabins of cars in front of them, something many drivers do especially when roads are congested; and tinted windows can impair a driver's vision, particularly at night, making it difficult to see pedestrians and bicyclists.

LIEUTENANT DIAL used a photo comparison of a Nissan Maxima with three different percentages of window tint to show how on a sunny day the interior of a car is obscured even with legal tint of 70 percent VLT. Regarding the car depicted with 30 percent VLT, he noted it is extremely difficult to see dark objects such as guns or to see what the driver is doing. He directed attention to the car with a 5 percent VLT, which is a limousine tint, and into which it was impossible to see anything even on a sunny day. He presented two real life photos of cars with tinted windows in Ketchikan and an industry photo of tinting.

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LIEUTENANT DIAL stated there are reasons not to change the current law in Alaska: the state's current standards assure that Alaskan vehicles are in compliance with the tinted window laws in most states and Canadian provinces; the law allows for increased visibility for the driver, especially important during times when there is not a lot of sun; the law provides increased safety for pedestrians; and the law provides increased safety for law enforcement officers.

LIEUTENANT DIAL testified that [the Department of Public Safety] supports SB 78 because: it protects the public from unethical installers who would tint a vehicle knowing that the installation is illegal; it will reduce the number of citations issued to motorists; and it will increase safety on Alaska's highways. He informed the committee that most new cars come from the factory with close to the legal amount of tint on the windows already. The bill would give the consumer legal recourse for being sold illegal tinting and the consumer could request the state troopers to issue a citation to the installer. Thus, SB 78 is a positive thing overall for the public.

LIEUTENANT DIAL noted that many window tint citations result from making a contact or traffic stop for another reason, as too-dark window tinting itself is a low priority in most cases. When traffic stops are made on individuals who are known "bad guys", a ticket will be written for window tinting because troopers do not want these people to have tinted windows the next time they are stopped.

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REPRESENTATIVE NEUMAN inquired whether window tinting is used as a primary offense for stopping a vehicle.

LIEUTENANT DIAL responded it can be a primary offense. A heavy tint is obvious and easily identified. However, in his experience with the officers he supervises, it does not happen very often because no officer wants to make a bad stop when the tinting is marginal and have egg on his or her face if the tinting passes muster. He said it tends to happen when the vehicle is stopped for some other reason such as suspicion of committing a crime or some other traffic offense.

REPRESENTATIVE NEUMAN asked whether rear window screens would be included on trucks.

LIEUTENANT DIAL replied no. Trucks are considered multi-purpose vehicles and, technically, a pickup truck could have limousine tint on the back piece of glass. He explained that tint meters only work on windows that can be rolled down. Tint material on windshields is pretty much illegal anywhere in the country, he said. Therefore, troopers really only focus on the driver's and passenger's side windows.

REPRESENTATIVE NEUMAN surmised it is only windshields and the front door windows that are being talked about.

LIEUTENANT DIAL answered yes. In response to further questions from Representative Neuman, Lieutenant Dial stated a limousine is a special-use vehicle that is exempt from the requirements for the majority of the windows. He confirmed this would affect primarily passenger cars. However, he noted, special-use vehicles like limousines, as well as pickup trucks, still have to have the windshield at the federally mandated standard and also the front driver and passenger side windows.

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MATT BLOODGOOD, Sergeant, Traffic Unit, Anchorage Police Department, related that during his years of patrol work he would run the tintometer out of curiosity on the vehicles he drove. Generally, he found the driver's side windows to be around 71-72 percent window tint from the factory. So, he said, anything that gets added to the driver's side windows pretty much makes it illegal almost immediately.

SERGEANT BLOODGOOD stated it is difficult at night to see into vehicles that have tinted windows. Oftentimes when officers make a traffic stop, an attempt is made to put light into the vehicle to determine what the occupants are doing, such as hiding drugs or having a weapon. However, the light cannot

penetrate window tint which creates flashback and makes it very difficult to see into the vehicle. He said that in a number of the hit-and-run cases he has handled, criminal investigation was hampered because the victims were unable to make any sort of identification on the driver due to window tinting and could not even tell if the driver was male or female. In January and February of this year, the 10 officers working in his traffic unit issued 119 citations for window tint.

SERGEANT BLOODGOOD addressed the earlier reference regarding police undercover vehicles. For the Anchorage Police Department, he said, there are some exceptions written into municipal ordinance to allow police vehicles to vary from some of the traffic ordinances based on the needs of the department and the mission of public safety.

ANDREW FELT, Employee, Auto Trim Design, said SB 78, as written, does not address the problem. If businesses were subject to fines as written in this bill, Auto Trim Design would have been put out of the business of doing window tint. "The law is very arcane as the way it was adopted," he said. For instance, a Subaru Forester is considered a sport utility vehicle (SUV) and it is permissible to darken the back windows. However, a Subaru Outback station wagon, which does not appear to be much different, falls under the category of a passenger car and would not be allowed to have the same level of window tint.

MR. FELT said that with the large number of transient military members a lot of vehicles come in from the many states that have much more lenient laws for window tint. Unless there is a 100 percent crackdown on all this window tint coming in from out-of-state, there will always be vehicles on the road with tinted windows. Other people will see this and want the product for its benefits, but there will be no place they can go to get it or to be educated as to what the law is regarding window film. There are many places online where pre-cut window tint kits can be purchased. These mail order kits are fairly easy for a backyard installer to put on and could not be regulated. This bill would only serve to put the people in the business of window tint out of it, Mr. Felt contended, and would leave the public without any place to turn for something even within the law.

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MR. FELT, in response to Representative Neuman, said his understanding is that the regulation would apply to any window

in any passenger vehicle; thus, it would also include the back window of a sedan.

REPRESENTATIVE DOOGAN inquired why the bill would put Mr. Felt out of business.

MR. FELT responded that current law does not say his business cannot do this; it says that the owner of the vehicle is subject to the law once that vehicle hits the road with the tint. This would put his company out of the window tint business because there would be no need to employ a person to do the window tint. He said he has done window tint for over twenty years in five different states, and Alaska is by far the most restrictive. Every day customers with brand new SUV's come to Auto Trim Design asking that the front windows be darkened as much as are the back windows from the factory. He said his shop tells these customers it will not do that, but that it will apply a light tint which, he acknowledged, does fall outside of Alaska's regulations. However, he contended, that tint is light enough to easily see into that vehicle. The law does not define darker tint as any more illegal than a very light tint, so in many people's minds the question is, Why bother paying someone to do it light when it can be done very dark somewhere else?

REPRESENTATIVE DOOGAN asked why passing a law that restricts Mr. Felt's business from installing window tinting which is already illegal on the road will put him out of business.

[1:50:40 PM](#)

MR. FELT replied because his employer would choose not to be in violation of a law that specifically targets the businesses that are doing window tinting. He said he can tint a vehicle legally if it is an SUV, but that percentage of his business is not very large. Most people want their entire vehicle done. His business would not be able to do the back windows of a Camry for the soccer mom who wants to keep her kids in the back seat cool and safe from ultra-violet rays. He said his business informs its customers that this is technically out of specification with Alaska state regulations and that they could be ticketed for it. Currently, Auto Trim Design is not violating the law by installing the window tint; the purchaser of that product is and most customers choose to accept that, given the benefits of the product. Only seven other states have laws close to or as restrictive as Alaska's, he related.

REPRESENTATIVE DOOGAN understood Mr. Felt to be saying that if his business only installs window tinting that is legal in Alaska he would not have enough customers to make it worthwhile to continue the business.

MR. FELT answered yes, this would be the case if film can only be applied to those vehicles that come under the legal allowable limit which includes pickup trucks, SUVs, mini-vans, and full-size vans. Federal regulations go back many years before there were such things as Ford Explorers and Dodge Magnums which do not fall under the classification of a passenger vehicle.

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BOB BOSWOOD, Owner, Auto Trim Design, stated he has been tinting windows in Alaska longer than [Lieutenant] Dial has been a trooper. Window film makes a vehicle look nice, cuts down on "UV", and reduces glare. At certain times of the year in Fairbanks the sun is on the horizon for quite some time and it nice to have the glare reduction. He agreed with [Sergeant Bloodgood's] statement that some factory tinted windows are already at the limit.

MR. BOSWOOD said a bill should accomplish something and the only accomplishment this bill will have is to restrict. His business will not tint windows too dark for police to see in, he stated. The medium 35 percent tint that is done by his business is outside the regulations. If the legislature makes it illegal for his business to do this, his business will comply with the law which will eliminate two full-time positions as well as several other services that those employees do seasonally.

MR. BOSWOOD warned that if his business is not here to do the medium tint on those windows, those very same windows will be tinted by someone's buddy on the military base or in a backyard or garage for cash only, and there will be no proof as to who tinted those windows. Additionally, those windows will be 5 percent tint and darker, as opposed to the 35 percent that his business currently does on front doors. He said he understands the trooper's side of it, but that most of today's SUVs and pickup trucks have dark tint that cannot be seen through and it is legal under federal standards.

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SENATOR FRENCH drew attention to a letter of support from the Chief of Police of the Fairbanks Police Department. He read aloud the last paragraph from the letter:

Regardless of whether or not a business owner personally agrees with the current tint requirements they all know what the current law is. For them to consciously disregard that law and install a window tint which they know to be illegal and passing on the subsequent cost for both the violation and tint removal to their often ignorant and unsuspecting customers is wrong and should not be allowed to continue.

SENATOR FRENCH said he thinks the testimony today points out why it is a good idea to put some onus on the tint installers - they know the regulations better than anyone else. So, it seems like a perfectly targeted bill to put installers in control of their own fate and let them install legal tint on the cars that can accept it and not install it where it is not allowed.

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REPRESENTATIVE NEUMAN stated he is trying to find some middle ground. He inquired whether Senator French has talked to the various parties to try to find a common-ground solution. He further inquired whether allowing another 5 percent tint, going from a 30 percent tint to 35 percent, would be acceptable.

SENATOR FRENCH responded he would not be in favor of making Alaska's laws more lax. There are a dozen or more other states with rules similar to Alaska and they get along just fine. The solution to the long sunny days in Fairbanks is a pair of sunglasses that can be taken off when the sun goes down, or shades that can be pulled down to protect kids when the sun is shining. He said the idea of changing the law to make the illegal installation of tint acceptable strikes him as being a step backwards.

REPRESENTATIVE NEUMAN asked which windows would be affected by the bill.

SENATOR FRENCH replied the bill would apply to all windows on the car, as provided on page 1, lines 7-9. He said a delayed effective date could be put on the bill to let companies use up the stock they have on hand and continue putting illegal product on the street and continue the citation of unsuspecting

consumers. A delayed effective date would give the businesses some time to adjust.

REPRESENTATIVE NEUMAN understood that Lieutenant Dial said it was just the front window and side windows.

SENATOR FRENCH understood that the rules apply all the way around the car.

REPRESENTATIVE NEUMAN inquired whether this means there cannot be more than 30 percent tint on any window.

SENATOR FRENCH said that particular statute belongs to the windshield and the two side windows. Also the tint cannot go beyond a certain level on the back passenger windows or the rear window. There are two separate rules for the front and the back. In further response, Senator French said there are two sets of rules - one for passenger cars and one for everything else, such as SUVs, limousines, and so forth.

SENATOR FRENCH, in response to Chair Johansen, confirmed the bill next goes to the House Judiciary Standing Committee and there are no further committee referrals.

[2:03:46 PM](#)

CHAIR JOHANSEN asked whether the different levels of tint are statutory or regulatory.

SENATOR FRENCH answered regulatory.

REPRESENTATIVE NEUMAN inquired whether out-of-state vehicles coming into Alaska from states where more tint is legal would receive a citation.

SENATOR FRENCH responded technically yes. He deferred to law enforcement to say what the practice is on the street.

REPRESENTATIVE DOOGAN understood that the committee does not have the window tinting law in front of it. What the committee has is a proposed law that would prevent installers from exceeding the current standards in Alaska.

SENATOR FRENCH replied correct.

REPRESENTATIVE DOOGAN stated the people arguing against SB 78 are essentially saying that they want to be exempt from helping

people break Alaska law because they want to be able to put tint on cars that does not meet these standards and be held harmless for this action, which is the current status of the law.

SENATOR FRENCH answered that is the argument he heard being made.

CHAIR JOHANSEN closed public testimony.

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REPRESENTATIVE NEUMAN supported the intent of the legislation, but said he is trying to find some middle ground.

REPRESENTATIVE DOOGAN stated he is perfectly fine with moving this bill.

CHAIR JOHANSEN said he understands the questions by the window tinters, but that is not what is being addressed, as was made clear by Representative Doogan. He stated the questions can be worked out through the regulatory process and suggested the installers contact the appropriate state agency regarding changing the regulations for the percentage of tinting.

REPRESENTATIVE Neuman moved to report CSSB 78(JUD) out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSSB 78(JUD) was reported from the House Transportation Standing Committee. The committee took an at-ease from 2:08 p.m. to 2:11 p.m.

HB 372-HIGHWAY DESIGN FLEXIBILITY/MUNICIPALITIES

[2:11:40 PM](#)

CHAIR JOHANSEN announced that the next order of business would be HOUSE BILL NO. 372 "An Act relating to highway design flexibility and to the assumption by municipalities of certain duties related to highways."

REPRESENTATIVE BOB BUCH, Alaska State Legislature, noted that HB 372 is the result of many conversations with his constituents about the roads in District 27, which includes the Ted Stevens Anchorage International Airport. The bill would require the Department of Transportation & Public Facilities (DOT&PF) to implement Context Sensitive Solutions (CSS) when designing and reconfiguring roads. He explained that CSS is the process that expands community involvement and brings in experts with

different perspectives when a road is being designed or redesigned. This process is being used to improve roads all over the U.S. with great success, he said, and because of its success, the Federal Highway Administration (FHWA) listed adoption of CSS in all 50 states by 2007 as one of its strategic goals. Context Sensitive Solutions would be a great system to improve Alaska's roads. He said there is a proposed committee substitute (CS) that is the result of a three-hour meeting yesterday between his staff, DOT&PF, and Frank McQueary of the Anchorage Road Coalition.

REPRESENTATIVE NEUMAN moved that the committee adopt as its working document the proposed CS of HB 372, labeled 25-LS0525\K, Kane, 3/6/08 (Version K). There being no objection, Version K was adopted as the working document.

JEFF OTTESEN, Director, Division of Program Development, Department of Transportation & Public Facilities (DOT&PF), stated that yesterday's three-hour meeting included discussions of the bill, examples of good and bad projects, and the things that could have been done better in the past. He said DOT&PF has a CSS policy that was adopted and is in use, and several projects that went through the CSS process have been built, including the new Elmore Road and the C Street extension. The proposed Bragaw Interchange at the Glenn Highway also went through the CSS process. Context Sensitive Solutions relies upon there being flexibility in design standards, explained Mr. Ottesen. While not every project has taken advantage of that flexibility, the department did adopt flexible design standards 10 years ago. Thus, CSS is not a new concept to the department, nor is flexible design standards.

[2:16:23 PM](#)

MR. OTTESEN said the previous bill troubled the department because it mixed design standards with design process and used the two ideas interchangeably as if they were the same thing. They are quite different in a legal sense, he stressed. He said the department proposed that the section on standards be left alone and that the focus be on design process. So, Section 1 now adds a new subsection to the statute about following a CSS process and Section 2 speaks to the types of organizations that would be considered to be invited to the table depending upon the particulars of a project. Not every project is going to follow CSS, only those projects that involve design, or new construction, or some new change to the roadway. He said the department is now much more comfortable with the bill, but it is

not yet 100 percent there. The bill is much better because it got rid of the legal conundrum, but there are still a few tweaks the department would like to work on with the sponsor. Time restraints precluded a full review, he explained.

2:18:48 PM

REPRESENTATIVE NEUMAN requested Mr. Ottesen to go through the bill and tell the committee which areas it supports and which it does not and why.

MR. OTTESEN responded the department's lack of support is not having had the chance to fully vet the bill with some other important people. The Department of Law (DOL), which defends DOT&PF in tort and other claims, has not seen the CS. He noted that DOT&PF submitted the long list of groups in Section 1(d). However, the question is when would these groups be necessary and could it create a legal challenge if every group is not consulted by the department for every project. Right now the department's process is in policy, he explained. When the process is put into statute, it carries greater weight and it creates a higher duty for the department and this is why there needs to be vetting by the DOL.

2:20:59 PM

REPRESENTATIVE NEUMAN offered his opinion that DOT&PF could address a lot of this through regulations. He referenced a statement made by Mr. Ottesen at another hearing about the department needing to start over whenever changes are made to a federally funded project and how this adds costs. He requested Mr. Ottesen to address this issue within the context of HB 372.

MR. OTTESEN replied an answer is hard because every project has a specific set of facts. It could be argued that CSS will make a project more successful because it brings all interests to the table and tries to satisfy as many points of view as possible. This is not to say that CSS will satisfy every point of view since some points of view will be tugging in different directions and the department must somehow find the common ground. For example, truckers may want wider lanes for a larger radius around corners, but pedestrians may want narrower lanes and a smaller radius at corners. The department must show that it went through the process as fairly as possible. He said he thinks CSS is a good process, but that the department does not want it to be used as a way to stall projects because it becomes something that can be litigated.

2:23:10 PM

REPRESENTATIVE NEUMAN noted that DOT&PF already does everything it can to accommodate CSS in the best way possible through its extensive public process. Yet, the number of lawsuits against projects has increased and the delays have substantially increased the costs of construction. He inquired whether HB 372 would bring about more lawsuits against the department.

MR. OTTESEN answered DOT&PF has not yet had a chance to ask the Department of Law for its opinion as to whether there is fuzzy language in the bill. It is fuzzy language that often leads to debates in front of a judge, he noted. While DOT&PF has a CSS policy and is implementing it, the department is not 100 percent there because it takes time and training for CSS to get inoculated into the brain of every design engineer so that each engineer knows he or she has the latitude to use CSS. Trainers have been brought in twice and the department is training CSS trainers within its ranks. One irony, he related, is that several of the examples raised in the discussion with Mr. McQueary would have been made better by CSS, but they were not DOT&PF projects and HB 372 would only apply to DOT&PF projects.

2:26:01 PM

REPRESENTATIVE NEUMAN inquired whether use of the word "shall" [page 2, line 9] locks DOT&PF into having to consult all of the agencies that are listed on [page 2, lines 12-26].

MR. OTTESEN replied the department had a long philosophical conversation with Mr. McQueary about whether this was necessary since DOT&PF has already adopted this policy and is rapidly trying to implement it. The feeling that was heard, he related, is that it is important to cement this into law so that a change in DOT&PF leadership over time could not just wash it away. However, in his experience these things become standard practice and do not tend to go away - more processes tend to be added over time rather than taken away.

REPRESENTATIVE DOOGAN asked whether DOT&PF is currently prevented from doing anything that is in HB 372.

MR. OTTESEN answered no. The vast majority of this is being done now and that is why the department is at the 80 percent comfort level.

2:29:15 PM

REPRESENTATIVE DOOGAN inquired whether Arctic Boulevard [in Anchorage] is an example that was not a DOT&PF project.

MR. OTTESEN responded he does not know the details of the Arctic Boulevard project, but he knows it was controversial.

REPRESENTATIVE DOOGAN remarked that if there is anything in HB 372 that would prevent a recurrence of the Arctic Boulevard controversy, then he will support this bill. He said he recognizes that CSS is a good thing, but he does not want to open up any more avenues for delay than what there already are. Would HB 372 open up more avenues, he asked.

MR. OTTESEN replied he cannot say absolutely without talking to the Department of Law. He pointed out the language on page 2, lines 10-11, which states, "When appropriate for a particular project, the commissioner shall consult with...." Thus, he explained, there is a judgment about what is "appropriate" on a particular project and if the department chooses not to go to all 11 groups on every project, it could be challenged on that simple fact alone.

2:30:51 PM

REPRESENTATIVE DOOGAN surmised Mr. Ottesen's concern is that someone will contest the department's interpretation of "appropriate".

MR. OTTESEN answered, "Precisely." That is a judgment that is being made and judgments are often open to multiple interpretations.

2:31:23 PM

REPRESENTATIVE KELLER inquired whether Mr. Ottesen thinks delays could be reduced if the spirit of HB 372 is followed through the early and effective involvement of the groups.

MR. OTTESEN responded that is precisely the successes that people point to when they talk about CSS. Bringing all of the various interest groups to the table at the same time allows everyone to hear the concerns of the others in order to come up with alternatives that are suitable to all.

REPRESENTATIVE KELLER suggested that some intent language in the bill might be appropriate.

MR. OTTESEN stated he did not have an opportunity to speak with Representative Buch about the department's remaining concerns prior to this committee meeting because of the floor session.

[2:34:13 PM](#)

REPRESENTATIVE DOOGAN asked how long Mr. Ottesen thought it would take to get the department's concerns checked out.

MR. OTTESEN replied 24 hours.

CHAIR JOHANSEN inquired whether the department currently has a specific list of groups that it contacts for proposed projects.

MR. OTTESEN answered the project manager or the project engineer typically learns what the issues are from scoping meetings that are held in various communities. He cited the new Bragaw Interchange across the Glenn Highway in Anchorage as an example of this.

CHAIR JOHANSEN surmised Mr. Ottesen's concern is that the flexibility the department now has for inviting groups to the table will be eliminated if the eleven groups are codified.

MR. OTTESEN responded he would like to make sure it is the right 11 groups, maybe it should be 13. For instance, transit organizations were only added to the list yesterday. He said he would like to find a way to say that the department has talked to these groups without making it a "gotcha" if the right group is accidentally not invited.

CHAIR JOHANSEN stated that is his point. Having a codified list could result in needing to come back to the legislature periodically to add to the list of groups. The concept of having the various entities at the table gives them ownership of the process and ultimately reduces the problems of litigation. He presumed Mr. Ottesen is looking for a way to make the rigidity in the bill more flexible.

MR. OTTESEN replied yes, flexible in both directions because maybe the department will invite groups that were not thought of during the previous three-hour work session.

[2:38:27 PM](#)

REPRESENTATIVE DOOGAN agreed it is a lot better to fight skirmishes when they are small and at the front of the project rather than to fight them in court when trying to pour the concrete. He said he shares Chair Johansen's concern about having to periodically add groups to the list. As opposed to a list, he asked, was there any consideration given to just writing more general language that would allow DOT&PF to include the appropriate groups or individuals in the process.

MR. OTTESEN answered there was a list in the previous version of HB 372 and the department added 3 or 4 categories to it. There was not enough time to think about that, he said, and this is the one section that troubles him. It is an evolving world and the groups that can be thought of today will not be the groups that are thought of five or fifteen years from now.

[2:40:06 PM](#)

CHAIR JOHANSEN announced he will hold HB 372 in order to allow the sponsor and DOT&PF to fix the last 20 percent of the bill.

[2:40:39 PM](#)

FRANK MCQUEARY, President, Anchorage Road Coalition, noted the Anchorage Road Coalition is a non-profit group comprised of members of the Anchorage community. He said the coalition's main function is education and advocating for the implementation of CSS. He informed the committee that Anchorage Metropolitan Area Transportation Solutions (AMATS) adopted the CSS policy and is now going through the public process to make it a statutory municipal policy. The concept of CSS is to involve all of the stakeholders in a community early and frequently in the process in order to eliminate many problems. It was started in 2000 at an American Association of State Highway and Transportation Officials (AASHTO) conference. A pilot project was started in five states to try to understand how something could be implemented that would improve processes, create greater satisfaction with projects, eliminate controversy and problems, and speed up the process. The conference title, "Thinking Beyond the Pavement," was the professional body's recognition that transportation actions have tremendous impact on lots of things besides just automobiles and moving traffic.

[2:43:53 PM](#)

MR. MCQUEARY related that [AASHTO's] web page describes CSS as a collaborative, interdisciplinary approach that involves all stakeholders to develop a transportation facility that fits its physical setting, preserves scenic, aesthetic, historic, and environmental resources while maintaining safety and mobility. Alaska is unusual in that it was not the engineering profession itself that introduced this initiative, although the committee is being told that DOT&PF practices it. Mr. McQueary acknowledged that DOT&PF does practice some parts of CSS. He said the coalition is pushing for statutory implementation of CSS because, as seen from other parts of the country, CSS is most successful when implemented by statute. It has been implemented by statute in about half of the states where it is in practice. He stated good design takes time and bad design takes longer because if it is bad design there will be controversy and legal delays.

[2:46:05 PM](#)

MR. MCQUEARY stated that a number of state, municipal, and private engineers have offered encouragement to the Anchorage Road Coalition, but they have not wanted to be leaders in this because of resistance at state and municipal levels. He said 14 states had implemented CSS statutorily by 2003, and he believes it had grown to about 28 states two years ago. It is a strategic goal of the Federal Highway Administration to have a 50-state adoption of this policy, he related. It is nice to say it is already being done, but if it is not a written policy it is subject to the vagaries of who is in office at any particular time. One real objective of [CSS] is to avoid the re-work cycle and the associated costs of doing something twice.

[2:48:55 PM](#)

MR. MCQUEARY stated that the statutory language in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) basically says stakeholders will be included early in the process. It is in the best interests of DOT&PF to recognize who the vested interests are - who will be damaged, who is going to benefit, and what the costs are. Improper pre-design analysis is the cause of much controversy and many delays. He said the language in SAFETEA-LU for inclusion of groups states "including but not limited to". He acknowledged there are notable instances where DOT&PF is trying to implement CSS. However, CSS is about much more than the public process, he said. The public is only one stakeholder. There is an economic impact, up or down, on property values. A

freeway has one overriding purpose and that is maximum mobility. In urban areas there are conflicts because more is trying to be done than just maximum mobility and this is where CSS came from in the Lower 48. The CSS process is already developed and not something new, so the expertise and resources are already available for implementing it in Alaska.

[2:53:11 PM](#)

MR. MCQUEARY noted that, according to statistical data, environmental issues were not the majority cause for project delays. The top causes for delay were lack of funding, controversy, or a low priority within the transportation departments themselves. The track record shows that states with CSS have more projects built quicker with less controversy.

REPRESENTATIVE KELLER thanked Mr. McQueary for testifying and said he really likes the concept and hopes the wording can be worked out.

MR. MCQUEARY said that, based on the experience of the other states, implementation of CSS would improve the process and would lower or have no impact on the legal risks of the transportation department. The FHWA has published a manual entitled, "Flexibility in Highway Design," which is specifically intended to educate the profession to how much latitude it has in using the "green book" as a starting point. He agreed with Mr. Ottesen that a lot of the engineers in DOT&PF are not there yet.

[2:57:16 PM](#)

MR. MCQUEARY noted the multi-disciplinary team that addresses a lot of the issues going in actually prepares the engineers to better defend the project downstream in a much less controversial environment. If there is not a good process then there will not be a good result. Alaska needs to extract the most value out of every dollar that it can and the CSS process will help do that. He said he is willing to engage in some tweaking as long as it does not neutralize the value of the policy. He cautioned that sometimes the search for perfection is the enemy of progress.

[2:59:20 PM](#)

CHAIR JOHANSEN reiterated he is holding HB 372 over so DOT&PF and the sponsor can get together. He inquired about the SAFETEA-LU language regarding organizations.

MR. MCQUEARY advised the language should recognize the possibility that there could be other groups than those that are listed and it should recognize the possibility that there will be projects where some of the groups will not have any relevant interest or input. Part of CSS is that transportation departments pro-actively reach out and understand who the stakeholders are and then bring them into the discussion. Putting all of the stakeholders into a room provides a totally different result than when each stakeholder is talked to sequentially, as has been done in the past. The dynamic of successful negotiation is to have everyone in the same room so that everyone understands all of the issues and realizes that the end product is going to be a compromise.

CHAIR JOHANSEN encouraged Mr. McQueary, the sponsor, and DOT&PF to get together. He invited Mr. McQueary to be online during the committee's discussion of the bill next week.

[3:01:30 PM](#)

REPRESENTATIVE BUCH drew attention to page 2, line 10, of Version K. He explained that this is discretionary language and is inclusive language, not exclusive language. So, these are listed recommendations of parties to include, it is not designed to exclude. It is a starting point and is not meant to dictate for every project. He said as the sponsor he is trying to get projects started and completed in an efficient manner in an effort of saving consumer and public funds.

REPRESENTATIVE NEUMAN asked whether it is DOT&PF that decides "When appropriate" as stated on page 2, line 10.

REPRESENTATIVE BUCH responded it is the commissioner who shall deem when it is appropriate, and it does not exclude any group. It is up to the commissioner to decide which groups are pertinent. It is very discretionary language.

CHAIR JOHANSEN stated the committee will look at this section next week.

[HB 372 was held over.]

HB 283-PURPLE HEART TRAIL

3:03:53 PM

CHAIR JOHANSEN announced that the final order of business would be SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 283 "An Act designating the Alaska Highway and a portion of the Richardson Highway as the Purple Heart Trail."

3:04:04 PM

JIM ISTURIS, Staff to Representative Berta Gardner, Alaska State Legislature, testified that SSHB 283 would establish the Purple Heart Trail. The Purple Heart is a medal that is awarded to common soldiers who have been injured or have died while fighting for America. The Purple Heart Trail is an effort to remind the public of the soldiers who have fought and sacrificed for America. The Purple Heart Trail started in Virginia and currently crosses 43 states and Alaska will hopefully be the 44<sup>th</sup>. There is a large military presence in Alaska and this trail will serve as a reminder of Alaska's appreciation of the service and sacrifice of military members.

CHAIR JOHANSEN stated his intention to hold SSHB 283 until next week.

RON SIEBELS, Military Order Of The Purple Heart, stated he has been working hard on this issue for over a year and is proud to say there wide support across Alaska. Representative Gardner and Senator Ellis helped get this issue before the legislature and Governor Palin and other statewide veterans' organizations support the bill, he related. The two major communities that would be in the center of the trail, Tok and Delta Junction, are in support of the bill. Also supporting the bill are the Anchorage mayor, the Anchorage Assembly, and the three members of Alaska's congressional delegation. He said he would like to show that Alaska has a heart that matches its size when it comes to honoring veterans, and passage of SSHB 283 would do exactly that. Alaska will continually be visited by many travelers who either know someone or are related to someone who was wounded or killed in battle, and the Purple Heart Trail signs will create a warm and positive impression on those visitors. The trail would therefore provide a twofold gain by honoring wounded and killed veterans and promoting a warm and visible welcome to the visitors whose own lives have been affected by the Purple Heart recipients they know and love. The Purple Heart Trail is a word designation only, no highway names or numbers will change. He said he passionately believes in America's Purple Heart Trail

and Alaska's officials will walk proudly into the future knowing they helped to get this done. This bill for the Purple Heart Trail is the right thing to do. On behalf of Alaska's combat-wounded veterans, he asked for the committee's unanimous support in passing SSHB 283.

[3:08:04 PM](#)

CHAIR JOHANSEN stated that due to lack of time, SSHB 283 will be held over and considered next week.

REPRESENTATIVE DOOGAN, for purposes of the record, asked Mr. Siebels to state why this particular stretch of highway was picked to be the Purple Heart Trail.

MR. SIEBELS said different roads were talked about, but it was thought that this was probably the best one because of its military history and the original Alaska-Canadian Highway in World War II. This highway was chosen for its military significance, the number of travelers coming into the state, and because it is the only route into Alaska.

#### **ADJOURNMENT**

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 3:09 p.m.