

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

April 26, 2007

1:32 p.m.

MEMBERS PRESENT

Senator Albert Kookesh, Chair
Senator John Cowdery, Vice Chair
Senator Bill Wielechowski
Senator Gary Wilken
Senator Donny Olson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

CS FOR HOUSE BILL NO. 126(JUD)(title am)

"An Act relating to access to criminal justice information for certain employees of the Department of Administration; relating to the procedure for changes to certificates, registration, titles, licenses, permits, and other forms relating to driving and motor vehicles; relating to requirements for, cancellations of, renewals of, reinstatements of, expirations of, disqualifications of, withdrawals of, suspensions or revocations of, and exemptions from commercial and other driver's licenses, permits, or privileges to drive; relating to records concerning motor vehicles and their drivers; relating to penalties for violating commercial driver licensing requirements; relating to the driver's license compact; and providing for an effective date."

MOVED CSHB 126(JUD)(title am) OUT OF COMMITTEE

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 139

"An Act repealing a limitation on the liability of certain airfield owners or operators."

MOVED SSSB 139 OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 126

SHORT TITLE: FORMS/DOCUMENTS/RIGHTS RELATED TO DRIVING

SPONSOR(S): REPRESENTATIVE(S) JOHANSEN

02/12/07 (H) READ THE FIRST TIME - REFERRALS

02/12/07 (H) STA, JUD
 02/15/07 (H) TRA AT 1:30 PM CAPITOL 17
 02/15/07 (H) <Bill Hearing Canceled>
 02/20/07 (H) STA AT 8:00 AM CAPITOL 106
 02/20/07 (H) Moved Out of Committee
 02/20/07 (H) MINUTE(STA)
 02/21/07 (H) STA RPT 6DP 1NR
 02/21/07 (H) DP: JOHNSON, JOHANSEN, ROSES,
 GRUENBERG, DOLL, LYNN
 02/21/07 (H) NR: COGHILL
 02/22/07 (H) STA AT 8:00 AM CAPITOL 106
 02/22/07 (H) <Bill Hearing Canceled>
 03/12/07 (H) JUD AT 1:00 PM CAPITOL 120
 03/12/07 (H) Moved CSHB 126(JUD) Out of Committee
 03/12/07 (H) MINUTE(JUD)
 03/14/07 (H) JUD RPT CS(JUD) 2DP 4NR 1AM
 03/14/07 (H) DP: GRUENBERG, LYNN
 03/14/07 (H) NR: COGHILL, DAHLSTROM, HOLMES, RAMRAS
 03/14/07 (H) AM: SAMUELS
 03/22/07 (H) TRANSMITTED TO (S)
 03/22/07 (H) VERSION: CSHB 126(JUD)(TITLE AM)
 03/23/07 (S) READ THE FIRST TIME - REFERRALS
 03/23/07 (S) TRA
 03/29/07 (S) TRA AT 1:30 PM BUTROVICH 205
 03/29/07 (S) Moved HB 126 Out of Committee
 03/29/07 (S) MINUTE(TRA)
 03/30/07 (S) TRA RPT 3DP 1NR
 03/30/07 (S) DP: KOOKESH, WILKEN, COWDERY
 03/30/07 (S) NR: WIELECHOWSKI
 04/16/07 (S) RETURNED TO TRA COMMITTEE
 04/26/07 (S) TRA AT 1:30 PM BUTROVICH 205

BILL: SB 139

SHORT TITLE: LIABILITY FOR AIRPORTS AND AIRSTRIPS

SPONSOR(s): SENATOR(s) OLSON

03/28/07 (S) READ THE FIRST TIME - REFERRALS
 03/28/07 (S) TRA
 04/12/07 (H) TRA AT 1:30 PM CAPITOL 17
 04/18/07 (S) SPONSOR SUBSTITUTE INTRODUCED-REFERRALS
 04/18/07 (S) TRA
 04/26/07 (S) TRA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

David Scott
 Staff to Representative Johansen

Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Presented HB 126 for the sponsor

Kerry Hennings, Drivers License Manager
Department of Motor Vehicles
Department of Administration
Anchorage, AK

POSITION STATEMENT: Testified on HB 126

Duane Bannock, Director
Department of Motor Vehicles
Department of Administration
Anchorage, AK

POSITION STATEMENT: Testified on HB 126

Dave Gray
Staff to Senator Olson
Alaska State Capitol
Juneau, AK

POSITION STATEMENT: Presented SB 139

Tom George
Aircraft Owners and Pilots Association
Fairbanks, AK

POSITION STATEMENT: In favor of SB 139

ACTION NARRATIVE

CHAIR ALBERT KOOKESH called the Senate Transportation Standing Committee meeting to order at [1:32:58 PM](#). Present at the call to order were Senators Wielechowski, Wilken, Cowdery, and Chair Kookesh.

HB 126-FORMS/DOCUMENTS/RIGHTS RELATED TO DRIVING

CHAIR KOOKESH announced HB 126 to be under consideration. [Before the committee was CSHB 126(JUD)(title am).] The bill had been pulled off the floor because Senator French had a problem with it. He came up with a conceptual amendment, but it wasn't available today.

CHAIR KOOKESH said that he and Senator Olson decided they would not support the amendment because it affects an area in rural Alaska. The conceptual amendment is on page 4 and deletes: "(a)

the employee who is properly licensed in the state and ordinarily operates the equipment is unavailable for."

Chair Cowdery said he didn't support the amendment either.

[1:34:10 PM](#)

SENATOR WIELECHOWSKI said that he had questions about the amendment and the bill as a whole.

CHAIR KOOKESH said that there were people available to answer questions.

SENATOR WIELECHOWSKI said he had talked to Mr. Bannock from DMV about his concern is on page 3 that allows operators of snow removal equipment to operate without any drivers' license at all. He said the specific language was on page 2, line 16, says the following persons are exempt from driver licensing under this chapter.

[1:35:45 PM](#)

DAVID SCOTT, staff to Representative Kyle Johansen, sponsor of HB 126, replied that Senator Wielechowski's interpretation may be valid, but he interprets it to mean that it applies to someone employed by the municipality who has a driver's license.

SENATOR WIELECHOWSKI said that under the provision someone convicted of a drunken driving offense who lost his license could still operate heavy machinery.

MR. SCOTT said that the word "driver" in the bill implies that the person in question is licensed.

SENATOR WIELECHOWSKI restated his concern that the bill will allow people who shouldn't be driving to operate snow removal machinery.

MR. SCOTT said that he saw the point Senator Wielechowski was making, but that his interpretation of the bill shows no problem.

[1:37:55 PM](#)

KERRY HENNINGS, Drivers License Manager for the Department of Motor Vehicles (DMV), said that section 9 of the bill, with the reference to drivers, referred only to licensed drivers.

[1:38:42 PM](#)

SENATOR WIELECHOWSKI asked which section of the bill she was referring to.

MS. HENNINGS replied that she was referring to the language on section 3 on page 4, line 2, "(9) in drivers employed by the municipality or established village." This exemption was added to help rural communities who don't necessarily have commercially licensed drivers.

SENATOR WIELECHOWSKI replied that he doesn't have an issue with that portion of the bill, but that persons who operate heavy equipment should be licensed in some way.

MS. HENNINGS responded that the Department of Law has said that the language is appropriate as-is.

[1:40:05 PM](#)

SENATOR COWDERY commented that he had been in the excavating business for a long while and heavy equipment doesn't need to have a highway license and aren't required to have a licensed operator.

[1:40:45 PM](#)

SENATOR WILKEN asked if Ms. Hennings supports the bill as written.

MS. HENNINGS said that she supported the bill, but not the amendment.

DUANE BANNOCK, Director of the Division of Motor Vehicles (DMV), Department of Administration, said that he prefers the original bill, without the amendment.

[1:41:40 PM](#)

SENATOR WIELECHOWSKI repeated his concern with the bill and asked if he interpreted it that you have to have a drivers' license, but not a commercial drivers' license.

MR. BANNOCK replied yes.

SENATOR WIELECHOWSKI asked for an explanation of "Department Administration is a criminal justice agency conducting a criminal justice activity" on page 2, lines 5 - 8.

MR. BANNOCK said that there need to be certain qualifications for commercial drivers, and the bill allows someone to be refused for not meeting the judicial qualifications.

1:43:51 PM

MS. HENNINGS replied certain considerations must be given when licensing commercial drivers and some of it is drawn from information contained in their criminal record as defined in AS 12.62.900. That is why that language is needed.

MS. HENNINGS added that to qualify under the standard to receive criminal justice information this language defines the department as working as a criminal justice activity.

SENATOR WIELECHOWSKI cited the definition of criminal justice activity in AS 12.62.900 that says it means "investigation, identification, apprehension, detention, pre-trial or post-trial release, prosecution, adjudication or correctional supervision or rehabilitation of a person accused or convicted of a crime." He said he didn't think it was their intent to give the Department of Administration the ability "to prosecute, detain, apprehend, adjudicate or rehabilitate person convicted of a crime."

MS. HENNINGS replied that was correct; they are looking at this for investigative purposes only.

1:44:58 PM

SENATOR WIELECHOWSKI went to section 10 on page 6 that changed some "mays" to "shalls" that essentially require them to obtain, maintain and update traffic reports within set periods of time and noted the accompanying zero fiscal note.

MR. BANNOCK explained the reason the fiscal note was zero is because the action is taking place today, but the statute is not conforming with the federal government. He added that a large part of this bill is the result of a federal audit.

1:46:00 PM

SENATOR WIELECHOWSKI asked if the DMV is already performing the actions the bill proposes.

MR. BANNOCK replied yes and that it was for the purpose of compliance.

SENATOR WIELECHOWSKI referenced section 15 on page 8, line 24, changes the age of a commercial driver to 19 years of age in interstate commerce, but at least 21 years of age in interstate commerce. He asked how interstate commerce is defined in the state of Alaska.

MR. BANNOCK replied that the Alaska commercial drivers license (CDL) will be recognized in another state under the concept of interstate commerce; so the 10 year old is free to do commerce within the state of Alaska with that commercial drivers' license. However, the 20 year old person would not be lawfully allowed to use his or her Alaska CDL outside of Alaska.

SENATOR WIELECHOWSKI asked they would be able to operate on federal roads.

MR. BANNOCK replied yes.

SENATOR WIELECHOWSKI went to page 8, line 31, and asked him to define "domiciled in the state".

[1:48:06 PM](#)

MR. BANNOCK replied that definition was on page 14, line 15.

SENATOR WIELECHOWSKI asked if someone needs to live in Alaska and have an ACDL to drive commercially in the state.

MR. BANNOCK concurred.

SENATOR WIELECHOWSKI asked if the bill will exclude any current operators in Alaska, like people who hold out of state licenses and operate in Alaska.

MR. BANNOCK replied that it could affect those living somewhere else, but who have an ADL. This is conforming language from federal language which requires people to have a license from their state of residence.

SENATOR WIELECHOWSKI said that section 16 talks about how someone could lose their ACDL if convicted in a court.

[1:50:00 PM](#)

MS. HENNINGS explained that this section gives the DMV administrative authority to disqualify someone after a court conviction.

SENATOR WIELECHOWSKI asked what an administrative action is.

MS. HENNINGS replied that the infractions or crimes requiring a disqualification are in federal regulations and the courts were supposed to be applying these penalties. It was somewhat confusing so it was determined administratively the DMV would

take the action after the judge convicted a person and he was found guilty.

SENATOR WIELECHOWSKI said that he also interpreted "or any other jurisdiction" to mean you could have some administrative bureaucrat in Alabama take away your license and your ACDL.

MS. HENNINGS responded that was correct.

SENATOR WIELECHOWSKI said in that case Alaska is giving up its sovereignty to any little community anywhere in the US.

MS. HENNINGS responded that is not the case; under the Drivers' License Compact the State of Alaska has reciprocity with other states and will not license a driver who comes to Alaska who is suspended and revoked in another jurisdiction.

SENATOR WIELECHOWSKI responded that it's not necessarily suspended or revoked because the bill lists a number of things a license could be lost for and one of them is a serious traffic violation.

MS. HENNINGS replied that is correct; and that process for revoking is already in place.

[1:52:10 PM](#)

She added if someone is convicted of a driving offense, the conviction is sent to the state of Alaska and it's put on record.

SENATOR WIELECHOWSKI asked her to look at section 8 and said if someone goes to Mississippi and operates his commercial vehicle in violation of a state regulation and gets an administrative conviction, then they lose their license in Alaska and the DMV has absolutely no say over that.

[1:52:51 PM](#)

MS. HENNINGS responded that was correct.

SENATOR WIELECHOWSKI said that he has serious concerns that Alaska is giving away its sovereignty and is allowing any state to revoke an Alaskan driver's license; the law is federalizing small-town administrative bureaucrats.

[1:53:42 PM](#)

MR. BANNOCK said that he doesn't agree with Senator Wielechowski's interpretation, and pointed out that the issue in

question is already law today and not really part of HB 126. He slightly agreed with him, however, that federalism has always been here as it pertains to commercial drivers' license which is what makes an ADL a viable document in every one of the other states. All drivers are keenly aware of that. Every other state has rules just like this; saying that some non-essential bureaucratic administrative action would have some unfair effect on a Alaska driver isn't a fair characterization.

[1:54:57 PM](#)

SENATOR WIELECHOWSKI asked how many other states have enacted similar legislation.

MR. BANNOCK replied all 50.

[1:55:10 PM](#)

SENATOR WIELECHOWSKI referenced a document showing that only four states have such legislation, and one currently has a resolution opposing it.

MR. BANNOCK said that he was unfamiliar with that document and restated that all states have the commercial drivers' license rules nearly verbatim to these same rules. This language came from the federal government.

SENATOR WIELECHOWSKI said that he had read otherwise.

CHAIR KOOKESH asked if the intention of the language in this bill is for the state to be in compliance with federal law.

MR. BANNOCK replied yes.

SENATOR WIELECHOWSKI said that he has strong reservations about the idea that Alaskans could potentially lose their driver's license in another state. This is federalizing our sovereign state's rights, he said.

[1:56:39 PM](#)

CHAIR KOOKESH asked if not passing it puts the state in jeopardy of losing federal funding.

MR. BANNOCK replied yes - to the tune of \$7 million in the first year and \$14 million in the second year. Perhaps the biggest hammer is the decertification of Alaska's commercial drivers' license. He added that the state of Alaska still maintains a driver's license; what is different about a commercial drivers' license is it is able to be accepted in any other of the 49

states - unlike a regular drivers' license. If he went to another state he would only have a certain number of days to legally use it. The reason the CDL has uniform rules is so that they are uniformly accepted throughout the US.

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AVES THOMPSON, Executive Director, Alaska Trucking Association (ATA), said that the ATA is in agreement with the intent of the bill. Failure to pass it would mean Alaskan commercial drivers would not be able to drive in other states. If it doesn't pass by late 2007 an ACDL will only be recognized in this state and that will have a disastrous effect on truckers in Alaska. Major funds are currently in jeopardy through non-compliance.

[2:00:45 PM](#)

MR. SCOTT said that the sponsor of the bill doesn't like the federal influence either, but it's necessary to pass the bill to help maintain the Alaskan economy.

[2:01:33 PM](#)

SENATOR COWDERY moved to report CSHB 126(JUD)(title am) from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

SENATOR WIELECHOWSKI stated that while he won't object to the bill because he understands the fiscal ramifications, he feels that the state is being held hostage on the issue; it's a step towards nationalization.

[2:02:33 PM](#)

CHAIR KOOKESH called a brief at-ease.

SSSB 139-LIABILITY FOR AIRPORTS AND AIRSTRIPS

[2:03:46 PM](#)

CHAIR KOOKESH called the meeting back to order and announced SSSB 139 to be under consideration.

DAVE GRAY, staff to Senator Olson, sponsor of SB 139, said in 2004 there was an attempt to correct difficulties with limited liability for private airports that pepper the state, which ended up creating even more confusion. SSSB 139 is an attempt to correct these difficulties by repealing the fee section of AS 09.65.093.

[2:05:12 PM](#)

SENATOR OLSON said that the bill came from a concern raised in past legislatures regarding airport liability. He gave an example of student pilot who lands at a private airport and runs off the runway. This is done without permission. It's a different story if you have permission. He said the confusion came from the Xs on the runway, which according to FAA regulations means it has been abandoned, not just closed.

[2:08:05 PM](#)

SENATOR COWDERY said that he is still a licensed pilot and said the instrumentation on his last plane had a button to push that indicated exactly where the closest airfield was. It didn't differentiate between private or public; it's where you had to go or you would crash. He asked if that was a common occurrence for airplanes.

SENATOR OLSON replied no; said that emergency functions are available in current GPS systems.

[2:09:18 PM](#)

SENATOR COWDERY commented further on aircraft emergency equipment.

[2:09:55 PM](#)

MR. GRAY related a personal story about flying with a pilot out of Kotzebue who had a rough engine and had to look for any place to land and finally made it back to a place southeast of Nome.

[2:10:43 PM](#)

TOM GEORGE, Aircraft Owners and Pilots Association, said the state has many little airstrips and in many cases they are maintained by dedicated individuals, groups or organizations who volunteer their time and efforts. This statute was originally intended to provide limits on civil liability for people supporting rural runways either on public or private land. He worked with the legislature a couple of years ago to improve this statute, which passed with overwhelming support. However, language in section (b) caused a lot of confusion and it led people to think they had to close the runways to be protected. That is exactly the opposite of the intent. He said this bill seeks to remove that language and leaves the emphasis on the protection provided by people who are willing to construct and maintain airstrips on an uncompensated basis.

[2:12:29 PM](#)

SENATOR WIELECHOWSKI asked what the difference is between (a) and (b) right now.

MR. GEORGE clarified that section (b) used to be limited to private use airports. It said the limitation of liability would continue if you closed the airport by doing the items that are listed in parts (1) and (2). When it was changed two years ago, the differences were removed, which caused the confusion. The real emphasis here is section (a) which buys protection; section (b) was originally there because of the difference between public and private and that has become irrelevant from his perspective.

SENATOR WIELECHOWSKI asked for the practical effect of removing section (b).

MR. GEORGE replied that it simply removes confusion; it doesn't change anything else.

[2:14:35 PM](#)

SENATOR COWDERY moved to report SSSB 139 from committee with individual recommendations and attached fiscal note(s). There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Kookesh adjourned the meeting at [2:15:02 PM](#).