

**ALASKA STATE LEGISLATURE**  
**SENATE TRANSPORTATION STANDING COMMITTEE**

February 12, 2008

1:07 p.m.

**MEMBERS PRESENT**

Senator Albert Kookesh, Chair  
Senator John Cowdery, Vice Chair (via teleconference)  
Senator Donald Olson  
Senator Bill Wielechowski  
Senator Gary Wilken

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

SENATE BILL NO. 164

"An Act relating to disclosures required for the sale of a used motor vehicle, including a trailer, by a motor vehicle dealer."

MOVED SB 164 OUT OF COMMITTEE

SENATE BILL NO. 249

"An Act establishing the Alaska capstone avionics revolving loan fund and relating to the fund; and providing for an effective date."

MOVED SB 249 OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: SB 164

SHORT TITLE: USED MOTOR VEHICLE SALES

SPONSOR(s): SENATOR(s) MCGUIRE

04/27/07	(S)	READ THE FIRST TIME - REFERRALS
04/27/07	(S)	TRA, JUD
02/12/08	(H)	TRA AT 1:00 PM CAPITOL 17

BILL: SB 249

SHORT TITLE: CAPSTONE AVIONICS FUND/LOANS

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/25/08	(S)	READ THE FIRST TIME - REFERRALS
01/25/08	(S)	TRA, FIN
02/12/08	(H)	TRA AT 1:00 PM CAPITOL 17

**WITNESS REGISTER**

TREVOR FULTON, staff  
to Senator McGuire  
Alaska State Legislature  
**POSITION STATEMENT:** Presented an overview of SB 164.

ED SNIFFEN, Assistant Attorney General  
Department of Law  
Anchorage, AK  
**POSITION STATEMENT:** Answered questions on SB 164.

JON COOK, Legislative Director  
Alaska Auto Dealers Association (AADA)  
Anchorage, AK  
**POSITION STATEMENT:** Supported SB 164.

HEIDI ANDERSON, Owner  
Quality Auto Sales  
Anchorage, AK  
**POSITION STATEMENT:** Supported SB 164.

FRANK RICHARDS, Deputy Commissioner  
Department of Transportation and Public Facilities  
Juneau, AK  
**POSITION STATEMENT:** Presented overview of SB 249.

GREG WINAGER, Director  
Division of Investments  
Department of Commerce and Community Economic Development  
Juneau, AK  
**POSITION STATEMENT:** Presented overview of SB 249.

MIKE STEDMAN, Director of Operations  
Wings of Alaska  
Juneau, AK  
**POSITION STATEMENT:** Supported SB 249.

WILFRED RYAN, President  
Alaska Air Carriers Association  
Anchorage, AK  
**POSITION STATEMENT:** Supported SB 249.

LEONARD KIRK  
University of Alaska Anchorage (UAA)  
Aviation Technology  
Anchorage, AK

**POSITION STATEMENT:** Answered questions on SB 249.

**ACTION NARRATIVE**

**CHAIR ALBERT KOOKESH** called the Senate Transportation Standing Committee meeting to order at [1:07:51 PM](#). Present at the call to order were Senators Olson, Kookesh and Cowdery (via teleconference).

**SB 164-USED MOTOR VEHICLE SALES**

CHAIR KOOKESH announced consideration of SB 164.

[1:08:29M](#)

TREVOR FULTON, staff to Senator McGuire, sponsor of SB 164, said SB 164 rights a wrong in Alaska statutes removing language in subsection (c) that governs used motor vehicle sales. He said the language was obsolete and no longer of any benefit to dealers, consumers or the state, because it required a notice on all used vehicles for sale that it is not subject to Alaska's lemon laws, is not covered under a manufacturer's warranty, and is not manufactured for sale in Canada or another foreign country.

All three of these conditions are unnecessary or redundant because Alaska's lemon laws apply only to new vehicles, the Federal Trade Commission already requires dealers to disclose that the vehicle is not covered under a manufacturer's warranty and AS 45.25.470 already mandates that dealers disclose in writing whether a motor vehicle was originally manufactured for sale in Canada or another country.

[1:11:58 PM](#)

SENATOR COWDERY asked if the warranty follows the vehicle or the owner.

MR. FULTON replied that this bill doesn't specifically address that but someone from the Alaska Automobile Owner's Association could probably address that.

SENATOR COWDERY asked why it is necessary to have the bill retroactive.

MR. FULTON replied that class-action lawsuits are being brought against car dealerships in the State of Alaska for unfair trade practices because for a couple of years they weren't stickering

their used vehicles; making it retroactive would address those lawsuits.

CHAIR KOOKESH asked Mr. Sniffen to address the retroactivity clause and how it relates to the present lawsuits.

ED SNIFFEN, Assistant Attorney General, Department of Law, said the retroactivity provision was requested by the auto dealers. He said there is some question whether the bill could be retroactively applied to halt pending litigation. He didn't know what the result of that will be, but this bill would not interfere with those lawsuits if it was determined that the retroactive provision couldn't stop the litigation.

Fundamentally, the reason the dealers are asking for retroactivity is because when this law was passed in 2004, it tried to address a problem with "current model used vehicles." This is a used vehicle, but one that is still within the current model year of vehicles being produced and offered for sale by a manufacturer. He offered an example where a Fort Richardson soldier buys a new Chevy 1500 pickup truck and gets deployed to Iraq three months later and tries to bring the vehicle back to the dealer for sale or trade. That vehicle would be considered a current model vehicle because it is still within the current model year even though it already had one owner. Not only were some dealers selling them with very low mileage, others were buying them in Canada to take advantage of the exchange rate and selling them in Alaska with sometimes less than 20 miles. So they had the appearance of a new vehicle.

To address that, additional disclosure were required so consumers would understand clearly these very low mileage vehicles were not new and they wouldn't have some of the protections they would have if they were. When the law passed, for some reason, the disclosure requirement was extended to all used vehicles not just the current model low-mileage ones. That wasn't the intent and dealers did not sticker all used vehicles. The retroactivity language was requested to make it clear it was never the intent that these disclosures be posted on all used cars, but rather just on current model used vehicles.

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CHAIR KOOKESH said he wanted to make sure that was on the record because the committee does not want to interfere with current lawsuits.

SENATOR OLSON questioned what will happen to the plaintiffs with class action lawsuits.

MR. SNIFFEN replied it's hard to say. He said some dealers might see what kind of mileage they can get out of the retroactive provision. The law is very gray in this area regarding whether the lawsuits will be dropped or limited to current model vehicles. This will need to be an argument between plaintiffs' lawyers and the defendant dealers.

SENATOR OLSON asked if something could be added to this bill to avoid more litigation.

MR. SNIFFEN replied that current language will discourage lawsuits and he didn't know what else could be done. It is clear that legislators intend the law to apply retroactively to the extent that it can be, to protect dealers who in good faith were trying to comply with the law at the time.

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SENATOR OLSON asked what kind of consumer protection buyers will have under this bill, since grievous action by used car dealers is commonly known.

MR. SNIFFEN answered that currently a host of consumer protections under the Automobile Dealers Act in AS.45.25 includes disclosures to consumers regarding vehicles manufactured in another country so they can decide if the warranty will follow the vehicle. Alaska also requires used car dealers to obtain information about a vehicle's prior accident or repair history for prospective purchasers.

In 2002 he along with legislators and industry came up with some good consumer protection legislation against offensive used car practices. The Federal Trade Commission (FTC) also requires disclosures already on used vehicles concerning warranty limitations and other rights a consumer may have. He said he thinks sufficient protections are in place that don't overburden dealers, but still provide good protection for Alaskan consumers.

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MR. FULTON said the bill packet includes an "as is sticker" that explicitly states what is or is not covered under warranty. Alaska Statute 45.25.470 on sales of vehicles manufactured in a foreign country says that before a sale, a motor vehicle dealer

shall disclose in writing whether a motor vehicle was originally manufactured for sale in Canada or another foreign country.

SENATOR COWDERY asked how the dealer can comply with the retroactive provision if he has already sold the vehicle.

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MR. SNIFFEN responded that if the vehicle has been sold without the disclosure, the violation has already occurred or hasn't occurred if this bill includes the retroactive provision, and there's nothing the dealer can do. Potentially some of the vehicle sales could be identified if the purchasers could be located.

SENATOR COWDERY asked if owners can't be located means no other options are available.

MR. SNIFFEN replied that is correct. He said that is a problem with the large transient population in Alaska especially with military bases.

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JON COOK, Legislative Director, Alaska Auto Dealers Association (AADA), Anchorage, AK, said he supported SB 164. He said his association has been working with Mr. Sniffen trying to deal with the unintended consequences of the earlier legislation and the only party to benefit from this provision is class-action attorneys. Most dealerships in Alaska are small family-owned operations and litigation could put them out of business. The lemon law, the manufacturer's warranty, and where a vehicle was manufactured are already covered under existing statute or don't apply. He said the two sides, industry and the department, have come together in agreement to create balanced legislation.

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HEIDI ANDERSON, owner of Quality Auto Sales, supported SB 164. She confirmed that the sticker is redundant and was originally designed for Canadian cars brought into the market. The language of AS 45.25.465, subsection (c) repeats what is addressed elsewhere or does not even deal with the used car market. She said the deleted language doesn't benefit anyone and is only being used to generate lawsuits against dealers.

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SENATOR OLSON asked if anyone opposes this bill.

MR. FULTON replied there has been no opposition.

CHAIR KOOKESH set SB 164 aside until Senator Wielechowski and Senator Wilken could join the committee.

**SB 249-CAPSTONE AVIONICS FUND/LOANS**

CHAIR KOOKESH announced consideration of SB 249.

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FRANK RICHARDS, Deputy Commissioner, Department of Transportation and Public Facilities, Juneau, AK, said SB 249, creates a loan fund within the Department Of Commerce and Community Economic Development (DCCED) called the Alaska Capstone Avionics Revolving Loan Fund. The purpose is to increase the safety of aviation transportation within Alaska by providing low interest loans for purchase and installation of Capstone avionics equipment.

He explained that Capstone is the next generation of technology to improve flight safety and community access in Alaska. The technology is called "Automatic Dependent Surveillance - Broadcast" (ADS-B). It allows aircraft equipped with the avionics to interact with ground infrastructure and satellite stations to provide pilots their exact location, airspeed, rate of ascent and descent, surrounding terrain, other aircraft and real time weather - essentially, the whole package of data you need for safe flight.

The Federal Aviation Administration (FAA) sponsored this technology in rural Alaska as a test, predominantly in Southwest around the lower Yukon Delta and Southeast Alaska. The result for those aircraft equipped with the new avionics was a 47 percent reduction in accidents and 33 percent reduction in fatalities. The FAA would now like to expand this technology statewide and has funding to build the necessary infrastructure. They have determined the need for about 4,000 aircraft to be equipped.

This bill creates a low interest loan program within DCCED to provide aircraft owners who are unable to shoulder the initial purchase cost with a reasonable loan. The Department of Transportation and Public Facilities supports passage of this bill.

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GREG WINAGER, Director, Division of Investments, Department of Commerce and Community Economic Development (DCCED), said the

Capstone Project has shown great potential to reduce accidents and save lives. His agency is pleased to play a role in this effort and has been doing loan programs, since the early 1970's, and has the expertise and a loan infrastructure in place.

MR. WINAGER explained the purpose of the loan program is for aircraft owners who log substantial hours in Alaska and enables them to get a loan for purchasing on-board avionics. The program would be set up as a revolving fund; as repayments come in, they can be turned around to create new loans to new borrowers. This means all the operating expenses would be paid out of the fund. The bill would allow loans of up to 80 percent of the cost of the avionics including installation. The interest rate would be 4percent with a maximum term of 10 years. An average size project could have a \$15,000 installation cost and receive a \$12,000 loan.

He explained the goal in setting up the terms was to create a manageable repayment plan and at the same time, provide enough cash flow that could provide loans to future participants. The program would pay its own way, and also returns its funds to the general fund at the time the program sunsets in. The division is requesting two positions, one loan officer and one loan closer. These positions would only be filled if loan demand dictates it is necessary. A fiscal note of \$4.8 million would capitalize the fund and allow about 400 loans in the first year and 60 loans each year thereafter. Accounting expenses would be absorbed and the division has new software to streamline loan programs.

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SENATOR OLSON asked if the interest rate is variable or fixed.

MR. WINAGER replied it is a fixed 4 percent rate.

SENATOR OLSON asked what would happen to the equipment if the loan recipient defaulted.

MR. WINAGER replied that the loans would be secured with the equipment. A last resort would be foreclosure returning the equipment to the fund.

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SENATOR OLSON asked how the revolving loan program will deal with the loss if an accident happens and the equipment is destroyed without having been paid for.

MR. WINAGER replied that the fund would be added as a loss payee on any insurance policies. If no insurance is involved other means would be used to pursue the funds. However, a small amount of risk is involved with potential losses.

SENATOR OLSON said he realized that much of this equipment is integrated with the whole electrical system and asked if there would be any efforts on the part of the state to encumber the aircraft.

MR. WINAGER replied the fund would rely primarily on the equipment to secure the loan, although a lean probably would be recorded against the aircraft. The typical title insurance usually applied when making a large loan against an aircraft would not be required, so the equipment would be considered secondary collateral.

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MIKE STEDMAN, Director of Operations, Wings of Alaska, Juneau, AK, said he supports SB 249. He said he was representing all Alaskans who travel by small airplanes whether for business or pleasure, and this includes the children and grandchildren of every member of the legislature. The safety benefits of having an aircraft equipped with Capstone equipment are invaluable. A price cannot be put on a person's life. The safety benefits have been proven in Phase 1 in the Yukon Delta with an overall reduction in the accident rate of 48 percent.

He explained that Controlled Flight into Terrain (CFIT) occurs when an airworthy aircraft under the control of the flight crew is flown unintentionally into terrain, obstacles or water, usually with no prior awareness by the crew and it is the number one cause of accidents in Alaska. Capstone provides Terrain Awareness enabling the pilot to see the terrain on the screen in the cockpit and know if that terrain is above him, at the same elevation or below him. Real time weather and other airplane traffic can also be seen in the cockpit. This provides for an incredible amount of situational awareness. His company was one of the first in Phase 2 Southeast to use the equipment. Wings has 12 aircraft equipped with Capstone and the company fully embraces it. He has been flying in Southeast for almost 30 years and can attest to the safety benefits of having Capstone versus the old days when the only thing pilots could rely on was their experience.

SENATOR OLSON asked how often the equipment had failed.

MR. STEDMAN replied the failure rate has been minimal. He said the few failures have been addressed by the manufacturer. The process has involved a steep learning curve.

SENATOR OLSON asked if misinformation ever comes up on the panel.

MR. STEDMAN replied there has been some, but very minimal.

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SENATOR OLSON asked who will pay for upgrade improvements in the future.

MR. STEDMAN replied that the program is now in Phase 2. There have been some Global Positioning System (GPS) upgrades as well as some air data computer and software upgrades, all of which the FAA Capstone Project has covered.

SENATOR OLSON asked who pays for training, especially for those for whom training is not a high priority.

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MR. STEDMAN answered the pilots have been trained by the University of Alaska Anchorage. He said he doesn't know who will be paying for it.

CHAIR KOOKESH asked if Mr. Stedman had noticed an increase in his landing and take-off capabilities and if he was flying more often than normal with this new equipment.

MR. STEDMAN replied he has seen an increase in his capabilities and his flying time.

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WILFRED RYAN, President, Alaska Air Carriers Association (AACA), Anchorage, AK, said he was also representing the Alaska Airman's Association (AAA) and the Alaska Aviation Safety Foundation (AASF). He said in response to Mr. Stedman that he hopes his landings and take-offs are equal. The companies he is representing include all commercial and general aviation constituents in Alaska. All support SB 249. The original Capstone program was a research and development program established for Southeast Alaska and the Yukon/Kuskokwim Delta. Now Alaska is able to compete with the rest of the country for the deployment of the next generation of Capstone equipment.

He explained that the FAA and the Alaskan aviation industry collaborated in developing the Capstone surveillance broadcast services statewide plan by 2009. This included a commitment from the FAA to deploy about \$493 million in ground base infrastructure, maintenance and operations over the next 27 years. This plan documents the activities for implementing proven Capstone technologies throughout Alaska to increase aviation safety and rural community access in concert with ground base transceivers statewide.

MR. RYAN said coordinating deployment of the FAA ground infrastructure and avionics equipment is key to the accelerated implementation strategy and success of the program. To fully gain the FAA's commitment to deploy \$493 million in Alaska through the next 27 years, the aviation industry is required to equip about 4,000 Alaska-based aircraft with safety avionics. While this is a challenge, it's attainable but only through a commitment from the aviation industry in the state. Because more than 90 percent of Alaska is only accessible by air, Alaska has the highest aviation accident rate in the nation. The implementation of Capstone technology is essential for safe flying in the future. The Alaska Air Carriers Association (AACA) represents more than 150 air carriers and associated suppliers. The Alaska Airman's Association (AAA) represents more than 2200 private pilots and mechanics. The Alaska Aviation Safety Foundation (AASF) is dedicated to improving aviation safety in Alaska. They all support SB 249.

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LEONARD KIRK, Aviation Technology, University of Alaska Anchorage (UAA), said UAA has been involved in the safety study to assess the value of Capstone and it has resulted in a 48 percent reduction in accidents. Prior to Capstone a lot of fatal accidents took place in the Yukon (YK) Delta with an accident rate four times the rest of the state. Following Capstone implementation, the YK Delta now has the safest record in Alaska aviation. From fatal accidents every 29 days, there was a 26 month period when there were no fatal accidents. UAA, with campuses throughout the state, has been involved in developing the training for the new technology

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SENATOR OLSON asked how people in remote villages will get trained.

MR. KIRK replied the avionic training devices are portable and allow him to conduct trainings in Southeast Alaska, in the Yukon Delta and elsewhere.

SENATOR OLSON asked if someone in an outlying village can get a discount if he's not getting training.

MR. KIRK answered the aircraft would have to have the equipment installed by an approved facility and before the airplane is flown home, the pilot could be trained. He said they would do everything they can to assist the process.

SENATOR OLSON asked if operators of larger aircraft are going to be subscribing to this program as well.

MR. KIRK answered he would hope that all would subscribe to ADS-B - (Automatic Dependent Surveillance - Broadcast). Northern Air Cargo operates 121 planes and was part of Phase 1 of Capstone.

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CHAIR KOOKESH called a short recess to wait for Senators Wielechowski and Wilken to join the committee.

#### **SB 164-USED MOTOR VEHICLE SALES**

[1:54:33 PM](#)

CHAIR KOOKESH reconvened the meeting and announced the committee would again take up SB 164. Public testimony had been taken and there was no opposition. He thanked Senator Wielechowski and Senator Wilken for leaving another meeting to join the committee.

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SENATOR OLSON moved to report SB 164 from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

#### **SB 249-CAPSTONE AVIONICS FUND/LOANS**

[1:55:54 PM](#)

CHAIR KOOKESH announced renewed consideration of SB 249. He briefly restated the intent of the bill and said the next committee of referral would be the Finance Committee.

SENATOR OLSON moved to report SB 249 from committee with individual recommendations and attached fiscal note(s). There being no objection, the motion carried.

There being no further business to come before the committee  
Chair Kookesh adjourned the meeting at [1:56:49 PM](#).