

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

February 24, 2009

1:09 p.m.

MEMBERS PRESENT

Senator Albert Kookesh, Chair
Senator Linda Menard, Vice Chair
Senator Bettye Davis
Senator Kevin Meyer
Senator Joe Paskvan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 111

"An Act relating to the duration of a certificate of compliance for an intrastate air service provider; and providing for an effective date."

MOVED SB 111 OUT OF COMMITTEE

SENATE BILL NO. 59

"An Act relating to the operation of low-speed vehicles."

HEARD AND HELD

SENATE BILL NO. 51

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

HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 111

SHORT TITLE: INTRASTATE AIR SERVICE CERTIFICATES

SPONSOR(s): SENATOR(s) OLSON

02/17/09	(S)	READ THE FIRST TIME - REFERRALS
02/17/09	(S)	TRA
02/24/09	(S)	TRA AT 1:00 PM BUTROVICH 205

BILL: SB 59

SHORT TITLE: LOW- SPEED MOTOR VEHICLES

SPONSOR(s): SENATOR(s) STEDMAN

01/21/09 (S) PREFILE RELEASED 1/16/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) TRA, JUD
02/17/09 (S) TRA AT 1:00 PM BUTROVICH 205
02/17/09 (S) Heard & Held
02/17/09 (S) MINUTE(TRA)
02/24/09 (S) TRA AT 1:00 PM BUTROVICH 205

BILL: SB 51

SHORT TITLE: MOTOR VEHICLE WINDOW TINTING

SPONSOR(S): SENATOR(S) FRENCH

01/21/09 (S) PREFILE RELEASED 1/9/09
01/21/09 (S) READ THE FIRST TIME - REFERRALS
01/21/09 (S) TRA, JUD
02/24/09 (S) TRA AT 1:00 PM BUTROVICH 205

WITNESS REGISTER

TIM BENINTENDI, Staff
to Senator Olson
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Introduced SB 111 on behalf of the sponsor.

CHRISTINE KLEIN, Deputy Commissioner
Department of Transportation and Public Facilities
Anchorage, AK

POSITION STATEMENT: Stated support for SB 111 on behalf of DOTPF.

DARWIN PETERSON, Staff
to Senator Stedman
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented committee substitute to SB 59 on behalf of the sponsor.

ROGER HEALY, Chief Engineer
Division of Design & Engineering Services
Department of Transportation and Public Facilities
Juneau, AK

POSITION STATEMENT: Articulated specific concerns DOTPF has with the committee substitute to SB 59.

SENATOR FRENCH

Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Sponsor of SB 51.

ANDY MODEROW, Staff
to Senator French
Alaska Capitol Building
Juneau, AK

POSITION STATEMENT: Responded to questions related to SB 51 on behalf of the sponsor.

BOB BOSWOOD, President
Auto Trim Design
Fairbanks, AK

POSITION STATEMENT: Stated opposition to SB 51.

RODNEY DIAL, Lieutenant
Department of Public Service (DPS)
Ketchikan, AK

POSITION STATEMENT: Stated support for SB 51

STEVE VINCENT, General Manager
Auto Trim Design
Fairbanks, AK

POSITION STATEMENT: Stated opposition to SB 51.

ACTION NARRATIVE

[1:09:35 PM](#)

CHAIR ALBERT KOOKESH called the Senate Transportation Standing Committee meeting to order at 1:09 p.m. Present at the call to order were Senators Menard, Davis, Paskvan, Meyer and Kookesh.

SB 111-INTRASTATE AIR SERVICE CERTIFICATES

CHAIR KOOKESH announced the consideration of SB 111.

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TIM BENINTENDI, Staff to Senator Olson, introduced SB 111 on behalf of the sponsor. He stated the following:

Senate Bill 111 would align two time frames which are currently officially out of sync. I say officially because the department is already behaving in a manor that the bill would accommodate.

Issued through DOT, certificates of compliance mandate that intrastate air carriers publicly display certificates that show they have active liability insurance policies in effect. As written in AS02.40.020, they run for the calendar year.

Valid policies held by commercial air carriers usually run for different time periods which can begin and end at any time during the year. there is also the situation where new aircraft is placed into service at any given time during the year. And then, of course, the insurance policy immediately picks up there.

New or renewed insurance policies which occur during the year necessitate that certificates issued on January 1st be renewed prior to December 31st. Likewise, policies issued during the year must be renewed on January 1st. The certificates do not cover the entire insurance period.

This circumstance wastes time and money for all parties, especially staff time at DOT.

SB 111 would dispense with the January-to-December time frame, and allow certificates of compliance to float with a carrier's insurance policy period. Basically saying any twelve-month period. This bill is supported by the Alaska Air Carriers Association, and has no known opposition.

The bill carries a zero fiscal.

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CHAIR KOOKESH commented that the bill appears to be a housekeeping item.

CHRISTINE KLEIN, Deputy Commissioner, Department of Transportation & Public Facilities (DOTPF), said the department supports the bill and wants the statute to match current practice.

CHAIR KOOKESH noted that a letter of support from the Alaska Air Carriers Association is included in the bill packet. Finding no one who wanted to testify, he closed public testimony and asked for will of the committee.

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SENATOR MEYER moved to report SB 111 from committee with individual recommendations and attached fiscal note(s). There being no objection, SB 111 moved from the Senate Transportation Standing Committee.

SB 59-LOW- SPEED MOTOR VEHICLES

[1:15:11 PM](#)

CHAIR KOOKESH announced the consideration of SB 59. He recapped that during the first hearing the administration expressed concern about certain parts of the bill and he asked the sponsor's office to work with DOTPF to find a compromise.

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DARWIN PETERSON, Staff to Senator Stedman, said they took direction from the Chair and worked on a committee substitute.

CHAIR KOOKESH asked for a motion to adopt the committee substitute (CS).

SENATOR MENARD moved to adopt the CS for SB 59, labeled 26-LS0280\S, as the working document. There being no objection, version S was before the committee.

MR. PETERSON explained that Section 1 maintains the existing law prohibiting low-speed vehicles to operate on highways with a posted speed of 35 miles an hour or higher. "It's still an opt out for municipalities if they choose not to allow that," he said. Section 2 adds a new subsection to allow the operation of low-speed vehicles on highways with a maximum posted speed of 45 miles an hour: in municipalities that have a population of less than 25,000; that are not connected by road to Anchorage or Fairbanks; and that have passed an ordinance to allow the operation of low-speed vehicles.

CHAIR KOOKESH asked to hear from the administration.

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ROGER HEALY, Chief Engineer, Division of Design & Engineering Services, Department of Transportation & Public Facilities (DOTPF) and Kurt Smith, Traffic and Safety Engineer, DOTPF introduced themselves.

MR. HEALY said his earlier testimony touched on the concern about differences in mean speed and the new CS addresses that. "By all accounts it maintains existing law within municipalities," he added. With respect to the current draft,

DOTPF continues to have concern about where the bill intends to go, so they asked the Department of Law to provide an interpretation. DOTPF reads Section 2, subsection (d)(1) to say that areas of the state outside of municipalities would allow low-speed vehicles. Under that reading low-speed vehicles would be allowed within the contiguous road system of Delta Junction, Nenana and Glennallen, and DOTPF does not promote a mix of low-speed vehicles and high-speed vehicles in those areas. He suggested that a minor modification to the language could address that concern. He doesn't believe it was the drafter's intent to include those areas.

CHAIR KOOKESH asked if he brought that to the attention of the sponsor or the drafter.

MR. HEALY replied it was mentioned in a phone call early this morning.

CHAIR KOOKESH asked if the department would support, or not oppose, the bill if that modification were made.

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MR. HEALY replied they would be more comfortable if the language in subsection (d) in Section 2 contained the same "may not operate" language that is contained in subsection (b) in Section 1. DOTPF basically views the "may operate" language to allow low-speed vehicles on highways with speeds of 55-60 miles per hour.

CHAIR KOOKESH admonished the department for not working with the sponsor to develop language that both could agree on and asked why that didn't happen.

MR. HEALY replied they were only able to get together last night to review the current language.

CHAIR KOOKESH announced that if the committee didn't object, he would send the bill back for further work. He again asked the department and the sponsor to get together and find some resolution. It's a simple bill that applies to specific areas in the state. "Let's just get it done," he said.

CHAIR KOOKESH held SB 59 in committee.

At-ease from 1:22:29 PM to 1:22:54 PM.

SB 51-MOTOR VEHICLE WINDOW TINTING

[1:22:54 PM](#)

CHAIR KOOKESH announced the consideration of SB 51. He added that committee members have particularly tight schedules today. Some members will have to come and go during the hearing so he wants an understanding that the bill will not move from committee today.

SENATOR FRENCH, Alaska State Legislature, sponsor of SB 51, introduced himself and his staff member Andy Moderow and said he too is over-booked. However, Mr. Moderow will stay to answer questions for the bill sponsor. Also, Lieutenant Dial is here and is very knowledgeable on the subject and can provide details.

SENATOR FRENCH explained that the community council in his district brought this to him because community members had expressed concern about the prevalence of vehicles with darkly tinted windows traversing their neighborhoods. A pedestrian first brought this to his attention and told him that it causes her unease when she can't see who's inside these cars because she can't tell if the drivers see her when she's walking. She asked him to do something. She had done some research and found that although it's illegal to have these tinted windows on your car, it is not illegal for businesses to install the tinting. Going to the source would probably cut down on this.

SB 51 essentially says that window tint installers will be held to the same standard as drivers. If it's illegal to drive with darkly tinted windows, it's illegal to install dark tinting. Installing the product would make the installer eligible for an infraction. From my perspective this is a community effort to make the streets safer and a common sense effort to make the laws uniform for installers and drivers, he stated.

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SENATOR MEYER asked what the infraction is for driving with tinted windows.

ANDY MODEROW, Staff for Senator French, replied AS 28.90.010(c) authorizes fines of up to \$300 to be put in by regulation. He noted that the violation for driving with window tinting that is darker than allowed is in the Alaska Administrative Code. The authorization is in the statute.

SENATOR MEYER recapped that the intent is make the infraction the same for the installer and the driver, and the fine is up to \$300.

SENATOR FRENCH said that's correct.

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SENATOR DAVIS pointed out that some people are medically authorized to drive with tinted windows. She asked if the bill would address that in any way.

SENATOR FRENCH replied the application process for a medical exemption would not change. If a person had a medical exemption to drive with tinted windows the installer would not be penalized because it would be legal. As Mr. Moderow pointed out, much of this is done by regulation so that's where the details are figured out; the bill simply establishes a statutory framework.

SENATOR DAVIS asked if he thinks it is unnecessary to include language about medical exemptions in the body of the bill.

SENATOR FRENCH replied he is at the will of the committee, but he thinks it's clear.

SENATOR MENARD stated her belief that it would be helpful to include the language in the bill.

CHAIR KOOKESH suggested the sponsor have a new CS drafted to include language about medical exemptions.

SENATOR FRENCH said he would take that as direction.

SENATOR PASKVAN told the committee that earlier today Mr. Boswood talked to him and gave him a sample of the 35 percent tinting that he installs as part of his business. He also provided samples of darker tinting that he obviously does not install. Along with the samples he provided pictures that indicate that with emergency lights it's possible to see inside a car that has 35 percent tinting on the windows. Senator Paskvan said he's just trying to figure this out and noted that the back windows on his Yukon XL have manufacturer installed tint that is darker than one of the samples. He asked for comment.

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SENATOR FRENCH explained that SUVs fall under different rules that are set out in federal law and preempt state law. SB 51 is aimed at passenger cars. As far as installers who feel that 35 percent tint is okay but dark tint is not, he pointed out that the law doesn't say that. Basically, current Alaska law says that factory tint is about as dark as is legal to install. It is illegal to drive with 35 percent tint; the driver can be cited and fined. Don't be misled that it's okay, he said. Trooper Dial has a perspective that is different from installers..

SENATOR MENARD asked if he has looked at the tinting samples.

SENATOR FRENCH replied he has met with the installers in the past, but not this year. However, he is up to speed on their perspective.

MR. MODEROW added that he met with Mr. Boswood today when Senator French was in another meeting and they do have a copy of the samples.

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BOB BOSWOOD, President, Auto Trim Design, said he's been in business in Fairbanks for 25 years and he's been installing window film since 1989. He explained that his argument isn't with the bill because he believes that it should be illegal to install dark films. He disagrees with the current law because the tint that is allowed is too light. "There is a medium ground that is a sellable commodity that provides both a cosmetic enhancement for the vehicle as well as it blocks the sun's glare, and it's safe."

MR. BOSWOOD explained that the 35 percent film is modeled after the Washington state regulation. It's a medium film and all the negative trooper documentation talks about dark window film. The sponsor statement also talks about dark window film. We're asking that the original regulation be amended to allow the window tint industry to survive, he said. In Fairbanks we will tint no darker than 35 percent film; it's proven to be a safe commodity in other states. "There is no evidence of any police officer ever suffering any injury or harm with a car that was tinted with medium window film," he said. The argument that the film makes it impossible to break the windows is misplaced because some glass is laminated for safety reasons. "There may be some arguments there as to whether they'll ever be able to break those windows out," he said.

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MR. BOSWOOD said "I'm just here to point out that there is a middle of the road solution to this problem that would allow my business to survive." It's misleading to say that 35 percent film is unsafe. In my area, law enforcement officers agree that 35 percent window film applied on vehicles isn't a problem, he concluded.

SENATOR MENARD asked if he would be satisfied if the word "dark" were removed and "medium" inserted.

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MR. BOSWOOD replied he would like the regulations to be changed to allow 35 percent film on all vehicle windows.

SENATOR DAVIS commented that his current practice of installing 35 percent tint is at cross purpose to existing statute.

MR. BOSWOOD acknowledged that the car owners are in violation. He added that he turns away about 75 percent of the customers who come to his shop seeking window tint because he won't tint any darker than 35 percent. Also, he makes customers sign a waiver attesting that they understand Alaska regulations and that they won't be in compliance. Many potential customers want a darker tint and when he won't do it they go down the street and get a "back-yard" job. "SB 51 is not going to eliminate the installation of dark film on any windows," he asserted.

SENATOR DAVIS said the intent of SB 51 is to hold the installers accountable.

MR. BOSWOOD said he's aware of that, and if it passes it will significantly impact the financial structure of his business. He reiterated that there is a common-sense middle ground.

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RODNEY DIAL, Lieutenant, Department of Public Service (DPS), said the department supports SB 51. Noting that he would be speaking from a PowerPoint he had prepared, he explained that what is referred to as tint is the opposite of what the statute calls visible light transmittance. For example, a 35 percent tint actually blocks 65 percent of the light passing through. Current Alaska law allows a five inch strip or eyebrow at the top of a windshield to be tinted to any level. The front driver and passenger windows can be tinted to block up to 30 percent of the light and that is referred to as 70 percent light transmittance. "That's how much light's passing through the glass." Rear windows must allow at least 40 percent of the light

to pass through. Some specialty-use vehicles are exempt, but they must comply with federal law.

LIEUTENANT DIAL cautioned that the data he collected on other jurisdictions may have changed in the meantime, so it should be considered approximate. When he prepared the PowerPoint, at least 13 other states and 90 percent of Canadian provinces had similar or more restrictive laws than Alaska. As a general rule, jurisdictions in hotter climates allow more tint. He feels it's important to be aware that if Alaska changes its standard to allow darker tinting, those vehicles will essentially be illegal in most of Canada and many Lower-48 states.

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LIEUTENANT DIAL said the next slide makes several important points about tinted windows. It compares tinted windows with sunglasses; general-purpose sunglasses must let at least 40 percent of visible light pass through. Most people would agree that it's unsafe to wear sunglasses at night, but don't realize that adding 35 percent tint on top of the factory-installed tint blocks more than 65 percent of the light. When he did his research he found no cars coming from the factory with zero tint. "It's just not cosmetically appealing."

LIEUTENANT DIAL noted that the information he included about filter colors comes from the tint industry website. For example, light gray tint transmits 35 percent to 43 percent of visible light, and has 65 percent to 57 percent tint. Again, he pointed out that tint and visible light transmittance are opposite. The next four slides detail some of the problems that police have had that relate to tinted windows. The first is that witnesses have difficulty identifying who is in a vehicle. The next problem is that an officer approaching a car can't see who is inside or what they're doing. This can be dangerous or fatal to officers and has been a long-standing concern to law enforcement. The stress level to officers is very high. He acknowledged that officers do "light up" vehicles they stop and they do carry flashlights, but often that doesn't illuminate the interior of the vehicle adequately. In the three years he's worked on this project, he has not met an officer who thinks that tint limits should be changed.

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LIEUTENANT DIAL said his research indicates that communities are advocating for more restrictive requirements because of problems that relate to tinted windows. Those include: Chicago police who mistakenly shot a passenger because they thought they saw a gun

when it was a cell phone; witnesses who could not make positive identification through tinted windows; and motor vehicles and pedestrians collisions that are blamed on poor visibility due to tinted windows. He warned that this is a particular concern in Alaska where many roads have no streetlights.

LIEUTENANT DIAL said the next several slides show various tint examples. He cautioned that a tint film against a piece of paper is completely different than trying to see inside a car with tinted windows in a low-light situation. "Unless there's inside illumination coming out, what you're really doing is you're filtering the light a couple different times before you actually see it." Light is filtered as it enters a vehicle and then it's filtered as it exits the vehicle. He displayed pictures of a Nissan Maxima. The first was taken on a sunny day, the tint was legal, and the visual light transmittance (VLT) was 70 percent. He noted that even then the interior was somewhat dark. The next showed medium tint with 30 percent VLT, which is illegal in this state. The last showed heavy tint with 5 percent VLT, which is generally reserved for limousines. The next three pictures were taken in Ketchikan on the same day. The Ford Explorer has a lighter tint than is allowed, but if any after-market tint were applied it would be outside legal limits. The picture of a Dodge Durango shows what the factory tint looks like. The picture of a Toyota Avalon shows legal 70 percent VLT on the front side windows. The rear door window tinting with 35 percent VLT and rear window with 20 percent VLT are both illegal.

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LIEUTENANT DIAL detailed some reasons that current law regarding tint standards should not change. Alaska citizens would be more likely to be ticketed if they drove to Canada or other states. Approximately 3,000 citations are written each year for tinted windows: 1,200 are written by APD, 1,000 by troopers, and 800 by other agencies throughout the state. When he's stopped vehicles he's never heard a driver say they were told it was illegal to get after-market tint but they decided to do it anyway. They're understandably upset when they get a correctable citation and have to remove it. Removal is not easy and the result is often unsightly. Other reasons not to change current law include pedestrian and officer safety. He asked the committee to support the bill; if for no other reason it will save drivers from getting tickets and officers from taking time to write those tickets. "To me it just seems somewhat wrong to be installing this knowing that the car is illegal." His experience is that most people tint their windows for vanity reasons, but that doesn't outweigh all the other concerns, he said.

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STEVE VINCENT, General Manager, Auto Trim Design, said he is not unsympathetic to the dangers that law enforcement officers face on a daily basis. However, he questions why officers don't simply ask people to roll down their windows if they're darkly tinted. Referencing the previous testimony, he said the Ford Explorer falls under different rules so it shouldn't be used as an example. He then pointed out that tinting windows lowers heat inside the vehicle and may stop glass from shattering in the event of an accident. Finally he said he doesn't think that Alaska should model its laws after those of a foreign country. Rather, it should look at what Washington, Oregon, Idaho and Montana are doing.

CHAIR KOOKESH asked if he supports SB 51.

MR. VINCENT replied he does not support it as written.

CHAIR KOOKESH announced he would hold SB 51 awaiting an amendment that Senator Davis requested to allow medical exemptions.

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There being no further business to come before the committee, Chair Kookesh adjourned the Senate Transportation Standing Committee meeting at 1:56 pm.