

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

February 6, 2014

1:08 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Doug Isaacson, Vice Chair
Representative Eric Feige
Representative Lynn Gattis
Representative Craig Johnson
Representative Bob Lynn
Representative Jonathan Kreiss-Tomkins

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 271

"An Act making a special appropriation to the University of Alaska Fairbanks for a study of the feasibility of constructing a railroad between Fairbanks and Deadhorse; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 260

"An Act relating to transportation of commercial motor vehicles."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 271

SHORT TITLE: APPROP: RAILROAD FEASIBILITY STUDY

SPONSOR(S): REPRESENTATIVE(S) ISAACSON

01/22/14	(H)	READ THE FIRST TIME - REFERRALS
01/22/14	(H)	TRA, FIN
02/06/14	(H)	TRA AT 1:00 PM BARNES 124

BILL: HB 260

SHORT TITLE: COMMERCIAL MOTOR VEHICLE EXCEPTION

SPONSOR(s): REPRESENTATIVE(s) ISAACSON, KELLER

01/21/14	(H)	PREFILE RELEASED 1/17/14
01/21/14	(H)	READ THE FIRST TIME - REFERRALS
01/21/14	(H)	TRA
02/06/14	(H)	TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

DANIEL M. WHITE, Ph.D., Associate Vice-Chancellor for Research
University of Alaska Fairbanks;
Director, Institute of Northern Engineering
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of HB 271.

CLARK HOPP, Vice-President
Engineering
Alaska Railroad Corporation (ARRC)
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 271.

BRENDA HEWITT, Staff
Representative Doug Isaacson
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: On behalf of the sponsor, answered
questions during the discussion of HB 260.

DAN SMITH, Director
Division of Measurement Standards & Commercial Vehicle
Enforcement
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the discussion of
HB 260.

ANMEI GOLDSMITH, Assistant Attorney General
Transportation Section
Department of Law (DOL)
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the discussion of
HB 260.

BILL BROWN, President and General Manager
Bob's Services
Anchorage, Alaska
POSITION STATEMENT: Testified during the discussion of HB 260.

STEVE ANGEL, Fleet Sales Manager
Seekins Ford-Lincoln
Fairbanks, Alaska

POSITION STATEMENT: Testified during the discussion of HB 260.

ACTION NARRATIVE

[1:08:26 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:08 p.m. Representatives Feige, Gattis, Johnson, Isaacson, Lynn, Kreiss-Tomkins, and P. Wilson were present at the call to order.

^#hb271

HB 271-APPROP: RAILROAD FEASIBILITY STUDY

[1:09:24 PM](#)

CHAIR P. WILSON announced that the first order of business would be HOUSE BILL NO. 271, "An Act making a special appropriation to the University of Alaska Fairbanks for a study of the feasibility of constructing a railroad between Fairbanks and Deadhorse; and providing for an effective date."

[1:09:39 PM](#)

REPRESENTATIVE ISAACSON, speaking as sponsor, stated that HB 271 is timely given the catastrophic news of Flint Hills Resources (FHR) refinery shutting down. Historically, FHR has significantly contributed to the Alaska Railroad Corporation's (ARRC) revenue. In the early 2000s, FHR provided over 55 percent of the railroad's revenues, but it is now down to 15-20 percent and soon it will be less. He reminded members that this committee assists Alaskans to make connections to communities, resources, opportunities, and markets. He recalled during his time serving as mayor of North Pole asking ARRC's president & CEO Pat Gamble and later Roald Aadnesen whether the railroad should be expanded north, west, or south. He reported their responses were that the railroad should have gone north from the beginning. He said that an expanded railroad could be the

engine of prosperity for Alaska, especially with so much resource activity in northern Alaska. He referred to a study in members' packets entitled "Economic Impact of a North Slope Rail Extension on Northern Energy and Mineral Development" by Paul Metz, Colin Brooks, and Mike Billmire that reviews the impacts of a North Slope rail extension on northern energy and mineral development.

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REPRESENTATIVE ISAACSON remarked on construction activity, including that Alaska Industrial Development & Export Authority (AIDEA) is currently working to construct a road to the Ambler Mining District. Further, North Slope oil and gas and mineral activity between Deadhorse and Fairbanks could be put into production. He stated that Ted Leonard, Executive Director, AIDEA, said that the role of the state is to prove the feasibility and conduct Environmental Impact Statements (EIS) prior to the private sector investing and developing in projects. For example, Red Dog is currently buying back a road that AIDEA initially financed, he said.

REPRESENTATIVE ISAACSON offered his belief that the transportation of the heavy sand, steel, cement, equipment, and fuel necessary to bring shale oil development to Alaska's oil fields and is estimated to be over 2 million tons. That potential rail transportation equals approximately five 10,000 ton-freight trains per week, which translates to one hundred cars per train or 336 eighteen-wheel commercial vehicles per day. Currently, the haul road can't withstand that type of activity. Further, it is estimated that an expanded railroad could bring a 30 percent return on investment based on one activity alone.

REPRESENTATIVE ISAACSON stated that HB 271 would provide \$2 million to the University of Alaska Fairbanks to perform an economic feasibility study to substantiate these findings before proceeding with a more costly EIS. This study would identify whether it is feasible to extend the railroad north. Other substantial benefits would include connecting communities, improved delivery of goods, providing a stronger financial base

for our railroad, and providing access to additional mineral deposits. Rail would increase the viability of development and lower operational costs while providing greater safety in transporting materials. The UAF is best suited to conduct the study due to its world class researchers, who excel in a number of pertinent disciplines. Additionally, the UAF has the ability to build on current and previous research and to provide the commissioned information economically and quickly. He asked members for their support.

[1:16:28 PM](#)

DANIEL M. WHITE, Ph.D., Associate Vice-Chancellor for Research, University of Alaska Fairbanks; Director, Institute of Northern Engineering, stated that he has served as an administrator at the UAF since 1995. He asked to testify in support of HB 271. He said that compared to other states in the U.S., Alaska's infrastructure is very underdeveloped. Infrastructure leads to access, which leads to economic development. Oil and gas and mining development represent a global market. Companies base their decisions on costs in Alaska and costs often hinge on the ability to move goods to market. He emphasized that the North Slope, in particular, faces high transportation costs and higher capital and operating costs than other areas in Alaska and the U.S. Additionally, moving oil, natural gas and minerals and other materials to Alaska, including concrete, steel, food, and people make North Slope development expensive. Construction costs and operating costs factor for the North Slope are three to five times higher than the national average, he stated.

DR. WHITE said that according to the aforementioned study by Paul Metz, Professor, Geological Engineering, UAF, developing a railroad system between the North Slope and major access points would allow for new project development and lower project development costs, which would make a variety of new projects more viable. The cost of rail freight in shale oil development alone would be roughly one-tenth the cost of trucking. Additionally, northern mineral development would also benefit since trucking costs are estimated to be 36 percent of mineral concentrate values when considering moving freight from the Ambler Mining District to Port MacKenzie. However, by rail the

cost would be reduced to approximately 12 percent of the concentrate value at the mine, which is three times less cost. Dr. Metz provided the economics for a number of projects. He emphasized that the railroad would carry large amounts of bulk freight and lowering the cost of production could make the state and North Slope development competitive with other producers in the industry. This will allow the state to achieve an appreciable return on investment from shale royalties alone. He offered his belief that UAF is the best place to conduct the research for the feasibility of building a railroad between Fairbanks and Deadhorse since researchers at the Alaska University Transportation Center have a long history of working with DOT&PF, the oil and gas industry, and the broader transportation industry across the nation.

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DR. WHITE said that the studies the Institute of Northern Engineering has been involved in include the Alaska/Canada Rail Link Project, the Port MacKenzie Rail Link Project, and the proposed rail connection through Alaska, Yukon, and Northern BC. The Water and Environmental Research Center has conducted transportation research for a variety of roads in the Roads to Resources programs (R2R), including the Ambler road project, the road to Umiat, the North Slope Foothills road, the Bullen road, and ice roads across the oil field exploration areas. The Institute of Northern Engineering's Water Center has developed logistics planning tools for North Slope ice road construction, operations and maintenance. The Alaska Center for Energy and Power (ACEP) has conducted economic feasibility studies on energy for nearly all communities in the state. The UAF can draw on a wide range of technical specialists, including researchers in geology, economics, engineering, and social science. Anthony Scott, one of the state's leading resource economists, was recently hired by the university to work with ACEP. Mr. Scott previously worked for the Division of Oil & Gas. He lauded Dr. Paul Metz as the leading geological engineering researcher in mineral development and freight logistics. He noted that all of the previous rail studies have taken advantage of Dr. Metz's expertise. The UAF has the knowledge and the resources to undertake a feasibility study

such as this under the timelines anticipated to further develop the economic prosperity of Alaska and lower the cost of production on the North Slope. He said that improving the ability to move bulk materials across Alaska will increase the viability of new projects, particularly in mining and those of the small oil producers. He concluded that HB 271 is not just a feasibility study, but represents an investment in the economic development of Alaska.

[1:22:34 PM](#)

REPRESENTATIVE LYNN asked how much difficulty it would be for the railroad to traverse the Brooks Range at Atigun Pass. He understood this is part of the feasibility study but asked for general comments.

DR. WHITE responded that the goal of the feasibility study is to look at the economics, land ownership, right-of-way issues, grade, and access points. Certainly, railroads across the western U.S. cross similar boundaries, thus, he believed that the railroads have experience in this area.

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CHAIR P. WILSON asked for the timeline and proposed completion date of the proposed rail extension.

DR. WHITE answered that he didn't know, but the timeline would be addressed in the feasibility study. He remarked that some delayed projects in Alaska have been due to permit and land access issues rather than construction issues.

[1:24:35 PM](#)

REPRESENTATIVE ISAACSON, in response to earlier questions, responded that some of the information is in the data banks. He referred to a study in members' packets entitled, "Alaska Transportation Corridor Study, March 1972." He indicated the transportation corridor hasn't changed much since this study was conducted and much of the source information is available. He explained the requested funding in HB 271 will be for compiling

information, examining it from modern standpoint, and ensuring the ability to make a business case by taking into consideration studies and facts.

[1:25:47 PM](#)

CLARK HOPP, Vice-President, Engineering, Alaska Railroad Corporation (ARRC), in response to Chair P. Wilson, said he was unsure of the timeline. He indicated the ARRC has had some experience with the Northern Rail Extension project and the Port MacKenzie project. The permitting and environmental process ranged from two to four years for permitting and environmental. Since this project is an even larger project, he estimated that it would probably be "north" of that timeline.

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REPRESENTATIVE ISAACSON pointed out that AIDEA has built other roads and that it is not likely that the road will be built with general funds. The project would likely be built using revenue bonds or private investment, although the funding sources would be identified in the feasibility report.

[HB 271 was held over].

^#hb260

HB 260-COMMERCIAL MOTOR VEHICLE EXCEPTION

[1:28:03 PM](#)

CHAIR P. WILSON announced that the final order of business would be HOUSE BILL NO. 260, "An Act relating to transportation of commercial motor vehicles."

[1:28:25 PM](#)

REPRESENTATIVE FEIGE moved to adopt the proposed committee substitute (CS) for HB 260 labeled, 28-LS1155\0, Martin, 1/22/14, as the working document. There being no objection, Version 0 was before the committee.

[1:29:03 PM](#)

REPRESENTATIVE ISAACSON, speaking as joint prime sponsor, stated that this bill builds on HB 15 that passed the legislature last year, which increased weight restrictions on vehicles for pickups from 10,000 to 14,000 pounds. Currently, drivers must hold a commercial driver's license (CDL) to operate vehicles 26,001 pounds and over. This bill supports truck dealerships, the "upfitting" industry, and commercial end users by reducing regulations and costs in Alaska. Currently, commercial trucks are brought to Alaska by dealerships from assembly plants, "upfitted" by three or four Anchorage-based manufacturers that make alterations to complete the vehicle, and transported to dealers outside Anchorage. He explained "upfitting", that an upfitter may add a flat bed or a box van to the chassis of a vehicle similar to a Ford F-150 or a Ram 3300. Once the upfitting is completed the vehicle becomes too large to put on a normal vehicle transporter, which necessitates that a driver fly to Anchorage and transport it to the dealership -typically in Kenai, Prudhoe Bay, and Fairbanks - to ultimately be sold.

REPRESENTATIVE ISAACSON reiterated that current law requires drivers transporting dealer-owned vehicle to possess a CDL and medical certificate even though the trucks being transported to dealers are not being used to transport commercial or interstate payloads. Further, the specific rules and regulations of a CDL entail the maintenance of a logbook and a physical exam. Additionally, the vehicle is required to have a U.S. Department of Transportation decal identifying the gross vehicle weight and pertinent information and the owner must permanently affix safety equipment. However, the permanent safety modifications are meant to be made after the point of sale when the vehicle is actually put into use. Freeing up the dealership to use their employees as drivers will reduce the ultimate cost to the owners and allow the dealers to operate more competitively. Providing exceptions for driving upfitted vehicles without being subject to commercial vehicle enforcement reduces the impact on the state's commercial vehicle enforcement division, thereby allowing the enforcement officers to concentrate on regulating the commercial vehicles they are charged with overseeing.

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REPRESENTATIVE ISAACSON explained that Version 0 includes two restrictions requested by the DOT&PF's weights and measures section. First, it added language that the driver must be 18 years of age or older. Second, Version 0 excluded 16-passenger vans.

[1:33:02 PM](#)

REPRESENTATIVE JOHNSON asked whether this bill applies only to new vehicles.

REPRESENTATIVE ISAACSON answered yes.

[1:33:18 PM](#)

REPRESENTATIVE JOHNSON said he does not see any restriction limiting new dealers in Version 0.

REPRESENTATIVE ISAACSON answered that Version 0 would apply to vehicles in the dealer's possession, which generally are new vehicles. Typically used vehicles are bought "as is" so generally the bill will apply to new vehicles.

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REPRESENTATIVE FEIGE said the bill is limited up to 19,500 pounds and passenger vans 15 passengers or less. He asked whether it should be extended to all commercial vehicles and the reason for the limitation.

REPRESENTATIVE ISAACSON answered that this bill met the needs of the dealerships, although he is not opposed to expanding the language. He deferred to the dealers to answer.

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REPRESENTATIVE GATTIS asked to piggyback on Representative Johnson's query. She asked for the downside on adding used vehicles since farmers often buy used vehicles and have them retrofitted.

REPRESENTATIVE ISAACSON responded that perhaps he had been too hasty with his earlier remarks so he corrected himself. He said he thinks of the vehicles in question as typically being new vehicles; however, the bill does permit a vehicle in control of a dealership to be "upfitted." Thus, this bill would apply if the person purchased the vehicle in one city; the vehicle was modified by upfitter in a different city than the dealer, [and transported to the dealer]. He was unsure that this describes the normal experience for an individual buying a "used" vehicle.

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REPRESENTATIVE FEIGE referred to page 1, line 12 of Version 0, which states in part, "The commercial motor vehicle does not have to be inspected before transport to the dealership" He asked for clarification on which inspection this language references. He wondered if this is the inspection the commercial driver performs - the walk around inspection - or if this is a formal inspection done by a certified shop.

REPRESENTATIVE ISAACSON answered this language refers to the specific Department of Transportation & Public Facilities (DOT&PF) inspection decal that is required to be affixed inside the door that identifies the end user, the gross vehicle weight, and a series of other identifications. He offered to provide a photo of the sticker to the committee.

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REPRESENTATIVE FEIGE suggested it might be more useful to cite the specific statutes or regulation.

REPRESENTATIVE ISAACSON offered to do so.

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REPRESENTATIVE JOHNSON asked how this bill would affect someone desiring to upfit a truck or motor home in Seattle and drive it to Alaska. He acknowledged he would like to see the work performed in Alaska, but would like to know the implications.

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BRENDA HEWITT, Staff, Representative Doug Isaacson, Alaska State Legislature, on behalf of the joint prime sponsor, stated that his example would fall under interstate commerce; however, the bill is aimed at intrastate commerce since Anchorage is the end point. She explained the circumstances that led to the bill, such that someone would order a vehicle with the final destination being Prudhoe Bay, but the vehicle would be upfitted and most upfitters are currently located in Anchorage. In this instance the purchase was considered to be interstate commerce, [which falls under federal regulations] so the upfitting couldn't be accomplished. Under the bill, the vehicle would be purchased in Seattle but the end point would be considered to be Anchorage. At that point, the vehicle could be upfitted and would be considered intrastate commerce. Substantially, the vehicle would be moved from Anchorage [to the purchaser or dealer at the end point, such as Fairbanks or the North Slope].

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REPRESENTATIVE JOHNSON related a scenario in which in which a dealer purchases a truck in Seattle, has it upfitted in Seattle, transports it via tote on the Alaska Marine Highway System (AMHS), offloads it in Whittier and then drives it to the North Slope. He asked whether he would need a CDL to transport the vehicle since it would be considered interstate commerce.

MS. HEWITT related her understanding that it would be considered interstate and not covered under the bill, but she suggested the DOT&PF could also respond.

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REPRESENTATIVE JOHNSON, in response to a question, clarified the vehicle would be outfitted in Seattle.

REPRESENTATIVE ISAACSON answered that if the vehicle was outfitted in Seattle it would fall outside the scope of this bill. He provided an example of HB 260, that it will help rectify an instance in which the oil industry purchases a fleet

of vehicles, retains the similar chassis but needs the back end of the vehicles to have utility configurations. The "upfitting" of these vehicles would occur in Anchorage, but the industry doesn't purchase the vehicle until it arrives at the dealership [in Fairbanks, Kenai, or the North Slope]. Currently if a Fairbanks dealer purchases a vehicle, which is upfitted in Anchorage, the dealer is subject to regulatory requirements for fire extinguishers, DOT&PF inspections - resulting in stickers that identify end user, gross vehicle weight, and other information - even though money hasn't been paid to the dealer. The dealer wants to transport the vehicle after upfitting in Anchorage to the Fairbanks or other location. This bill would "kick in" [and allow this to happen without being subject to commercial vehicle regulations.]

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REPRESENTATIVE JOHNSON asked for clarification on the nuances of the vehicle being upfitted in Anchorage. He asked for clarification on the difference between a vehicle that is being upfitted in Seattle and one being upfitted in Anchorage. He wondered if the bill would be "running afoul" of interstate commerce by restricting something from coming in from outside [Alaska].

REPRESENTATIVE ISAACSON identified the important distinction as being the point of destination.

REPRESENTATIVE JOHNSON answered the destination in the aforementioned scenario would be the dealership in Fairbanks.

REPRESENTATIVE ISAACSON responded that currently if the vehicle is landed in Anchorage on its way to Fairbanks, it would still be considered interstate commerce. He related his understanding that if it is landed in Anchorage to be upfitted that the vehicle [ownership] would still rest with the manufacturer. Therefore, the intrastate commerce [laws would apply]. He clarified that his office worked with the DOT&PF on the language in Version 0.

REPRESENTATIVE FEIGE interjected that contractual language should identify the point of ownership changes.

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REPRESENTATIVE JOHNSON, referring to the scenario, understood the point of ownership would occur in Fairbanks.

REPRESENTATIVE ISAACSON deferred to the DOT&PF to answer.

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REPRESENTATIVE FEIGE referred to Version 0, page 2, line 2, to subsection (b) which read, "A driver transporting a commercial motor vehicle for a motor vehicle dealer under (a) of this section must be 18 years or older" Thus anyone 18 years or older can move the vehicle from the upfitter to the final destination - the dealer's point of sale - whether or not they have a commercial driver's license (CDL). He asked for the current requirements.

REPRESENTATIVE ISAACSON answered that a person would not need a CDL to operate vehicle under 26,001 pounds; however, that DOT&PF could better answer this. He related his understanding that dealers must technically either use drivers with a CDL or be subject to the medical as well as the other provisions. He said this bill addresses the technicality so enforcement officers can easily identify that the vehicle is still in the dealer's possession, that the vehicle has dealer's plates and proof of insurance so it is not subject to commercial vehicle regulations. Therefore, anyone can drive the vehicle [from Anchorage to the point of sale without needing a CDL or being subject to commercial vehicle enforcement].

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REPRESENTATIVE FEIGE referred to page 2, line 4 of Version 0 that pertains to transporting the vehicle. He asked whether the language could be interpreted to mean the person is actually driving the vehicle or if the person is transporting the vehicles by using a trailer. He said the way the bill is

written someone could drive a semi hauling several vehicles between Anchorage and Fairbanks without needing a CDL or complying with other requirements, such as being subject to a medical examination.

REPRESENTATIVE ISAACSON acknowledged that is a good point. He offered to obtain clarification on whether the person transporting the vehicle is driving or operating the vehicle. He said he understood the nuance.

CHAIR P. WILSON added that some questions the Department of Law needs and the DOT&PF need to answer.

[1:48:46 PM](#)

DAN SMITH, Director, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation & Public Facilities (DOT&PF), stated that the state has the authority to regulate intrastate commerce for vehicles up to 26,000 pounds. Vehicles designed or used to transport more than 16 passengers automatically fall under the authority of the Federal Motor Carrier Safety Administration (FMCSA).

MR. SMITH explained that HB 260 would exclude those vehicles designed to transport passengers. In terms of the inspections, he understood that this pertains to the "396.17" periodic inspection [required under federal 49 C.F.R. Part 396.17]. He stated that the DOT&PF's weigh station inspection can also take the place of the periodic inspection. He further understood the inspection would not be required for a brand new vehicle. In terms of the origin and destination, this bill would apply only to intrastate commerce. For example, if a vehicle originated in Ohio with a destination of Prudhoe Bay, the transaction would be considered interstate commerce and fall under the federal definition "at 10,000 pounds." However, he clarified that if the vehicle origination was Ohio with a destination of the Port of Anchorage - and on to an upfitter or a dealer in Alaska, it would be considered intrastate commerce.

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REPRESENTATIVE FEIGE related his understanding that the distinction between interstate and intrastate would depend on where the transfer of ownership takes place. He asked for clarification of the transfer if a dealer in Fairbanks orders a vehicle from a [manufacturer]. He further asked whether the transfer of ownership would happen when the vehicle arrives at the dealer, if it accomplished through a contractual provision that specifies when the ownership transfer between the manufacturer and the dealer occurs, or if these transfers are a matter of convention.

CHAIR P. WILSON related her understanding that the bill attempts to provide a remedy for dealers, who wish to avoid the expense of complying with regulations. The regulatory requirements include specific provisions pertaining to fire extinguishers; however, when the vehicle is sold, the buyer might not want the extras. Under the bill, the [Seattle] dealer [or manufacturer] has possession. When the Alaska dealer sells the vehicle to someone else in Alaska it would fall under the intrastate jurisdiction so the dealer should not be subject to the extra expense [caused by the federal regulatory requirements].

REPRESENTATIVE FEIGE related his understanding that if a dealer purchased the chassis in Detroit and moved it across state lines that it would fall under the jurisdiction of interstate commerce.

CHAIR P. WILSON agreed that the scenario just described would be considered interstate commerce until it reaches the dealership in Alaska.

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REPRESENTATIVE ISAACSON said, "To the point of entry if that's where they designated it ..."

[1:53:31 PM](#)

ANMEI GOLDSMITH, Assistant Attorney General, Transportation Section, Department of Law (DOL), said the change in ownership transfers would determine whether the transport falls under

interstate or intrastate commerce. She agreed with Representative Feige that this would most likely be addressed in the contract between the dealer and the manufacturer. She said that under HB 260 that transfer point should probably be the Port of Anchorage.

CHAIR P. WILSON asked for further clarification.

[1:54:37 PM](#)

MS. GOLDSMITH responded that a manufacturer builds the vehicle and the manufacturer owns the vehicle. The manufacturer would sell the vehicle to the dealership and by contract would specify the specific point when the ownership of the vehicle will transfer to the dealer. The contract transferring ownership to the dealer could specify a day, time, and a place, with the dealership as the owner. The place of transfer from the manufacturer to the dealer would be the Port of Anchorage in order to give the dealership protection under the bill. For example, the contract could indicate the manufacturer is shipping a vehicle to the Port of Anchorage, with an anticipated barge arrival at the Port of Anchorage on February 10 at 10:00 a.m. The dealership would assume ownership once the vehicle is offloaded from the barge and all the legal rights and responsibilities of owning a vehicle would transfer to the dealer.

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REPRESENTATIVE JOHNSON offered his belief that dealerships do not own the vehicles. He suggested that the dealership pays a flooring fee and the manufacturer owns the vehicles until they are transferred to private individuals; however, he suggested the dealerships could testify to clarify this point.

MS. GOLDSMITH agreed that is how many dealerships work. Thus in order for dealerships to get the protection HB 260 offers, something may need to be changed, either in the way dealerships operate or some language may need to be added to HB 260 to accommodate how things normally occur.

REPRESENTATIVE JOHNSON argued that he did not think dealers will want to spend money on flooring. He thought perhaps an important step is being missed, that when something is upfitted, the process makes it a custom job and the vehicle has likely already been purchased. For example, someone such as an electric utility may buy a vehicle under a certain set of specifications, such as requiring an upfitter to install a lift. He did not think brand new vehicles sit at the dealership lots that don't come from the manufacturer. He did not think dealerships bring trucks to Alaska, have them outfitted on specification to sell to the utilities.

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REPRESENTATIVE ISAACSON agreed. He deferred to the DOT&PF to answer.

REPRESENTATIVE JOHNSON turned to his previous scenario, in which a vehicle was purchased, upfitted in Seattle, transported to Anchorage as compared to purchasing and upfitting the vehicle in Anchorage. He expressed concern that the bill treats the same vehicle differently across state lines. He asked for assurance that this doesn't violate the law.

REPRESENTATIVE ISAACSON deferred to the DOL to respond.

REPRESENTATIVE JOHNSON remarked that he supports helping Alaskans, but he wants to be sure the bill doesn't create problems with federal law.

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MS. GOLDSMITH answered that the language in the bill states "point of assembly," which could be problematic. She thought the discussion today has assumed that the Port of Anchorage would be the point of ownership change from the manufacturer to the Alaska dealership, but the bill language identifies it as being from "the point of assembly of the vehicle in this state to a dealership in this state" She suggested that the point of assembly is likely the yard performing the upfitting.

CHAIR P. WILSON offered her belief that the dealerships deal with these circumstances all the time.

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BILL BROWN, President and General Manager, Bob's Services, agreed that the dealerships encounter this on a daily basis. He related his understanding that the dealership takes possession of the vehicle once it is at the final transport point from the manufacturing. For example, if a dealership orders a vehicle shipped to Anchorage, the dealership takes responsibility at that point or when the company picks it up from the port. He said, "I don't think it is their responsibility from the manufacturer to their door, that's the manufacturer's responsibility." He stated that his company also encounters lot of vehicles in need of transport that are oversized for the transport industry. It has been costly for the dealership to hire a drive-away company to transport the upfitted vehicles. Instead, the dealerships would like to use their own personnel to do the transport. For example, when a vehicle is sold to ConocoPhillips Alaska, Inc. or another company in Alaska, the buyer has specifications and the vehicles must be modified.

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REPRESENTATIVE FEIGE asked where his business is located. He said he assumed that Bob's Services was an upfitter.

MR. BROWN answered that Bob's Services is an upfitter located in Anchorage.

REPRESENTATIVE FEIGE asked whether the manufacturer maintains ownership all the way to the dealer's floor or if Bob's Services transfers ownership.

MR. BROWN explained that typically ownership is transferred at the first point of delivery. He said that in Mr. Angel's case [Seekins Ford-Lincoln] the point of delivery would be at Bob's Service in Anchorage and the Fairbanks dealership would assume the freight charges to move the vehicle onward.

REPRESENTATIVE FEIGE clarified that the transfer of ownership typically occurs at the upfitter's location.

MR. BROWN explained that it would not be a transfer of ownership but rather would be considered a transfer of responsibility and the vehicle falls within the flooring program of the manufacturer. He said he was fairly certain that is the case, that the dealership doesn't take ownership until they have sold the vehicle.

[2:04:40 PM](#)

STEVE ANGEL, Fleet Sales Manager, Seekins Ford-Lincoln, stated that his job at Seekins Ford-Lincoln entails "specking," ordering, and delivering commercial vehicles for customers and Seekins Ford-Lincoln's sales lots in Fairbanks and on the North Slope. He said that some of the vehicles are cabin chassis' have been upfitted with bodies which include boxes, flatbeds, or service bodies that are too large for standard car carriers due to the overall dimensions of the upfit. The upfitted vehicles need to be shipped on a flatbed type trailer, commonly considered an 18 wheeler, which adds greatly to the dealer's expense. Those costs would ultimately be passed on to the end user. As a result, this places dealers outside Anchorage Bowl at a disadvantage pricewise when competing for commercial business.

MR. ANGEL said that the majority of the businesses providing the upfitting services are located in Anchorage and Seekins Ford-Lincoln has employees pick up and drive completed trucks and vans to Fairbanks or to Prudhoe Bay. He described the types of vehicles being transported as not being complex or equipped with air brakes or towing trailers. Instead, the vehicles in question are regular trucks and vans that due to the body configuration are considered to be commercial even though not yet licensed or titled. These vehicles meet all height, weight, length, and width requirements and when placed in service commercially would not require a permit to operate in Alaska. He explained that current law requires vehicles over 14,000 pounds must have a current DOT&PF inspection. Primarily, that inspection consists of an equipment inspection, with a placard

placed on the right-hand side of the vehicle, usually on the fender or the door. The placard lists items, including the owner, the DOT or ICC number, and gross vehicle weight. Additionally, these vehicles must carry an inspection document in the vehicle, which also contributes to additional cost. Further, not all end users are required to carry the inspections even though the vehicles may exceed 14,000 pounds. He related his understanding that government entities, such as the city, municipalities, and the state are not required to have this placard on the door. He indicated that some of the vehicles are ones not yet sold, but are destined for Seekins Ford-Lincoln, so the dealership doesn't even know the end user; therefore, the dealership doesn't have an ICC number or other data to make it legal to move these vehicles.

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CHAIR P. WILSON asked whether each individual vehicle is driven or if the vehicles are transported via a flatbed.

MR. ANGEL explained that Seekins Ford-Lincoln brings some units to their facility in a cabin chassis, without an "upfit" being performed. In the event a customer wants a particular upfit, the dealership will use a commercial carrier to back haul it to Mr. Brown's facility or to another upfitter in Anchorage. The upfitter will perform the upfit work. He pointed out that vehicles without any upfitting will fit on a standard car carrier. He said the issue occurs after the upfit is completed, since the upfitted vehicles won't fit on the standard car carrier. The upfitted vehicles may be too wide, too high, or too long. He pointed out that these types of vehicles have the exact same steering wheel and other configurations as a standard pickup truck. The only difference is that instead of having pickup boxes, these vehicles may have a flatbed, a service body, or any number of similar configurations.

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REPRESENTATIVE FEIGE said it seems that the transport must fit into the definition of intrastate commerce in order for Seekins Ford-Lincoln to be able to take advantage of the bill.

Mr. ANGEL agreed.

REPRESENTATIVE FEIGE reiterated that currently, the manufacturer owns the vehicle until it is sold on behalf of the manufacturer. He asked whether Seekins Ford-Lincoln or the end user took ownership of it at the Port of Anchorage or if it would fit in the dealer's business model since it will tie up capital and the dealership would incur the costs.

MR. ANGEL answered that Seekins Ford-Lincoln typically takes control of the vehicles at the upfitter or at Seekins Ford-Lincoln's lot in Fairbanks or Deadhorse. He explained that is the point at which the dealership has control over the vehicles. He indicated that Seekins Ford-Lincoln doesn't own any of the vehicles on their lot, that the vehicles are floored and owned by Ford Motor Credit. However, the vehicles are considered to be in Seekins Ford-Lincoln's possession and as far as the manufacturer is concerned the dealership is responsible for them.

REPRESENTATIVE FEIGE replied that the committee will need to decide whether the transfer of responsibility will allow the vehicles in question to fit into the definition of intrastate commerce; otherwise the bill will not help the dealerships.

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CHAIR P. WILSON asked whether the language could be changed to address the issue.

MS. GOLDSMITH answered that she discussed this briefly with Mr. Smith, DOT&PF right now. She said the DOL & DOT&PF doesn't think a problem exists the way the bill is currently written because the carrier is responsible to comply with the regulations. Essentially, it doesn't matter who owns the vehicle since the person who is legally responsible for the vehicle is required to comply with the law. She compared it as being similar to a personal vehicle that is leased. The leased vehicle is owned by the car company or the bank, but the driver who leases it is responsible for the insurance and any

accidents. In this instance, the vehicles would be owned by manufacturer, or the bank, but once the dealership assumes legal responsibility for the vehicles is the point that the bill would "kick in." She emphasized that full ownership is probably not necessary; it would just be the legal responsibility.

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REPRESENTATIVE JOHNSON related a scenario in which he picks car up at an upfitter and is subsequently ticketed. He asked who would be issued the ticket: the individual or the dealership.

MS. GOLDSMITH asked for clarification on whether he was speaking as the dealer.

REPRESENTATIVE JOHNSON answered that in this scenario he is working for dealer and was hired to pick up a truck. He asked who would get the ticket if the truck did have any documentation and he was pulled over by a trooper.

MS. GOLDSMITH answered that the driver should not get a ticket since the dealer is responsible for the vehicle and the driver is transporting the upfitted vehicle from the point of assembly in the state to the dealership in the state. She assumed the vehicle has dealer plates, proof of registration, and proof of insurance. If the driver was ticketed, the driver could probably successfully challenge the ticket, she said.

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REPRESENTATIVE JOHNSON said referred to the aforementioned scenario, but asked Ms. Goldsmith to apply current law. He asked whether the dealer or the driver would be ticketed.

MS. GOLDSMITH answered that without this bill the driver would be ticketed.

REPRESENTATIVE JOHNSON offered his belief this leads to responsibility and ownership issues and the driver is responsible but not the dealer. He was unsure the bill would give the Alaska firm preferential treatment.

MS. GOLDSMITH deferred to DOT&PF to answer the enforcement question.

MR. SMITH answered that normally the DOT&PF works with the operating authority. When a commercial vehicle is brought into the state and the party registers the vehicle at the Division of Motor Vehicles (DMV), the DMV requires the party to identify the carrier who is responsible for safety of the vehicle. He said this encompasses the motor carrier and safety regulations, and the U.S. DOT number that establishes the party with operating authority for either passenger or property carrier. He explained that at the roadside inspection, it will always be the operator who is issued any citation for violations. He said the DOT&PF would make the inspection at the roadside or during a traffic stop.

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REPRESENTATIVE ISAACSON asked for clarification. He recalled an earlier question was whether not offer the exemption in HB 260 would apply to all vehicles up to 26,001 pounds in weight.

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MR. ANGEL answered that lots of times vehicles at 26,000 pounds are ones equipped with air brakes and other systems that would fall under a requirements of a commercial driver's license (CDL). He offered that the bill's intent is to allow dealerships to move completed vehicles that are not complex vehicles, but fall under commercial definition due to the body type after upfitting. He emphasized that he did not want to avoid any safety regulations since he believes the regulations are important. He stressed he is not advocating that the bill exempt the type of vehicle after it's been titled a commercial vehicle or if the vehicle is beyond realm of the average person to drive it in a safe and conscientious manner. He pointed out a lot of variables come into play once the vehicle goes beyond the 19,500 pound threshold. He said at that point it might take a bit more skill to operate the vehicle safely, particularly if it has air brakes or other commercial configurations.

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CHAIR P. WILSON offered her belief that the questions raise the complexity of this bill and the issues.

[HB 260 was held over.]

[2:21:02 PM](#)

REPRESENTATIVE LYNN imagined how difficult it would be for a driver to explain everything that was discussed today with respect to the vehicles.

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[2:22:13 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:22 p.m.