

**ALASKA STATE LEGISLATURE**  
**HOUSE TRANSPORTATION STANDING COMMITTEE**

March 20, 2014

1:02 p.m.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT**

Representative Craig Johnson

**COMMITTEE CALENDAR**

HOUSE BILL NO. 371

"An Act providing for the Department of Transportation and Public Facilities to hold the surface estate of certain state land; relating to the transfer of certain state land and materials from the Department of Natural Resources to the Department of Transportation and Public Facilities for the construction or maintenance of the state highway system, state airports, and state public buildings and facilities; relating to the lease or sale of certain marine or harbor facilities; relating to the lease or disposal by the Department of Transportation and Public Facilities of rights-of-way, property interests, or improvements that are no longer required; relating to the grant of certain easements over submerged state land to the federal government; relating to the transfer of certain maintenance stations on the James Dalton Highway to the Department of Transportation and Public Facilities; relating to the conveyance of land for right-of-way purposes from the Alaska Railroad Corporation to the Department of Transportation and Public Facilities; and providing for an effective date."

- MOVED CSHB 371(TRA) OUT OF COMMITTEE

HOUSE BILL NO. 378

"An Act relating to motor vehicle registration; relating to drivers' licenses; relating to instruction permits; relating to commercial motor vehicles and commercial motor carriers; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 371

SHORT TITLE: STATE LAND AND MATERIALS

SPONSOR(S): TRANSPORTATION BY REQUEST

03/10/14	(H)	READ THE FIRST TIME - REFERRALS
03/10/14	(H)	TRA, RES
03/11/14	(H)	TRA AT 1:00 PM BARNES 124
03/11/14	(H)	Heard & Held
03/11/14	(H)	MINUTE(TRA)
03/18/14	(H)	TRA AT 1:00 PM BARNES 124
03/18/14	(H)	Heard & Held
03/18/14	(H)	MINUTE(TRA)
03/20/14	(H)	TRA AT 1:00 PM BARNES 124

BILL: HB 378

SHORT TITLE: DRIVER LICENSING

SPONSOR(S): TRANSPORTATION BY REQUEST

03/19/14	(H)	READ THE FIRST TIME - REFERRALS
03/19/14	(H)	TRA
03/20/14	(H)	TRA AT 1:00 PM BARNES 124

**WITNESS REGISTER**

KIM RICE, Deputy Commissioner

Department of Transportation & Public Facilities (DOT&PF)

Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 371.

JOHN BENNETT, Right-of-way Chief

Northern Region

Department of Transportation & Public Facilities (DOT&PF)

Fairbanks, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 371.

SEAN LYNCH, Assistant Attorney General

Transportation Section

Department of Law (DOL)

Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 371.

WYN MENEFFEE, Chief of Operations  
Central Office; Division of Mining, Land and Water  
Department of Natural Resources (DNR)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 371.

REBECCA ROONEY, Staff  
Representative Peggy Wilson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Testified on behalf of the House  
Transportation Committee, Representative Peggy Wilson, Chair,  
during the discussion of HB 378.

AMY ERICKSON, Director  
Division of Motor Vehicles (DMV)  
Department of Administration (DOA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during the  
discussion of HB 378.

DAN SMITH, Director  
Anchorage Office  
Division of Measurement Standards & Commercial Vehicle  
Enforcement (DMSCVE)  
Department of Transportation & Public Facilities (DOT&PF)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified and answered questions during the  
discussion of HB 378.

JOANNE OLSEN, Division Operations Manager  
Division of Motor Vehicles (DMV)  
Department of Administration  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of  
HB 378.

KATHLEEN STRASBAUGH, Attorney  
Legislative Legal Counsel  
Legislative Legal Services  
Legislative Affairs Agency  
Juneau, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 378.

ANMEI GOLDSMITH, Assistant Attorney General  
Transportation Section

Department of Law  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 378.

AVES THOMPSON, Executive Director  
Alaska Trucking Association, Inc. (ATA)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HB 378.

**ACTION NARRATIVE**

[1:02:37 PM](#)

**CHAIR PEGGY WILSON** called the House Transportation Standing Committee meeting to order at 1:02 p.m. Representatives Feige, Kreiss-Tomkins, Isaacson, and P. Wilson were present at the call to order. Representatives Lynn and Gattis arrived as the meeting was in progress.

**HB 371-STATE LAND AND MATERIALS**

[1:03:14 PM](#)

CHAIR P. WILSON announced that the first order of business would be HOUSE BILL NO. 371, "An Act providing for the Department of Transportation and Public Facilities to hold the surface estate of certain state land; relating to the transfer of certain state land and materials from the Department of Natural Resources to the Department of Transportation and Public Facilities for the construction or maintenance of the state highway system, state airports, and state public buildings and facilities; relating to the lease or sale of certain marine or harbor facilities; relating to the lease or disposal by the Department of Transportation and Public Facilities of rights-of-way, property interests, or improvements that are no longer required; relating to the grant of certain easements over submerged state land to the federal government; relating to the transfer of certain maintenance stations on the James Dalton Highway to the Department of Transportation and Public Facilities; relating to the conveyance of land for right-of-way purposes from the Alaska Railroad Corporation to the Department of Transportation and Public Facilities; and providing for an effective date."

[Version C adopted 3/18/14 was before the committee].

1:04:30 PM

KIM RICE, Deputy Commissioner, Department of Transportation & Public Facilities (DOT&PF) summarized the bill. She reminded members that the department has worked very closely with the DNR on this bill and the bill has been refined as testimony was given. The purpose of this bill is to clarify, streamline, and remove duplicate processes in DOT&PF & DNR. The DOT&PF and the DNR sometimes have duplicate authority - DOT&PF over transportation facilities and DNR for vacant unappropriated lands, as well as resource authority the DOT&PF doesn't have. Therefore, the DOT&PF can do many of the same things, but what has happened over time is that the DNR may not be aware of actions the DOT&PF has taken or duplication in law has occurred.

MS. RICE said that bill works to remove the redundancy and clarify the process, part of which is to streamline project delivery and part of it as it relates to the public with respect to land disposals. Once the DOT&PF is willing to give up a small remnant or a road has been moved, the property owner must go to both the DOT&PF and the DNR. For DNR, the land represents a very small piece of land in comparison to other DNR land. Property owners sometimes get lost in the process and are harmed. Third, the DOT&PF would like to resolve bureaucracies in terms of how the department manages transportation material sites. The DOT&PF does not want to manage all the material sites. She assured members that DNR will still have the ability to give the public material out of the pits and manage them in the same way, but the DNR will consult with DOT&PF on the ones used for transportation purposes. She concluded that this is the overview of HB 371.

1:07:12 PM

MS. RICE offered to cover the acquisition process to shorten project delivery, Mr. Bennett will discuss improvements on the land disposals and how to help neighboring properties, and Mr. Lynch will discuss the material sites.

MS. RICE explained that some questions have arisen with respect to property rights. She referred to flow chart in members' packets [entitled "Typical DOT&PF Project Development Process"]. She recalled some comments that DOT&PF is project centric and DNR is land centric, which is true; however, the projects are on DNR's land and the DOT&PF builds access to the land. Further, in managing lands DNR has typically been more focused on their functions and often is less aware of the DOT&PF's process to get a project delivered. The flow chart does not include how, where, or why, but starts with project delivery. The orange circles or clouds represent each time the DOT&PF formally touches the public.

1:09:09

MS. RICE related the DOT&PF's informal process is ongoing. Beginning with the State Transportation Improvement Program (STIP), all state or federally funded projects go through the STIP process. Thus the STIP contains all projects regardless of the funding type. This process requires an extensive public process and once finalized a project undergoes an environmental process. Most projects are federally funded so National Environmental Policy Act of 1969 (NEPA), is mandated, but even though state-funded projects don't require it, NEPA tends to affect every project. For example, she referred to the Elmore Road project in Anchorage. This project was a \$40 million totally state funded project with 1,000 feet of bridge constructed - mostly for mitigation - over federally controlled U.S. Army Corps of Engineers (USACE) permit facilities. However, the state performed a NEPA document parallel with the design process. In fact, she has never observed a process that did not require NEPA's involvement. The NEPA process could range from a checklist to a full-blown formal Environmental Impact Statement (EIS), depending on the input received from all of the agencies the DOT&PF contacts during the process. During the NEPA process, engineers analyze alternatives that will physically meet the purpose, including material source, consider costs, and discuss the project with the regulators, including the Alaska Department of Fish & Game, the DNR, and the USACE - the bottom right shows the list of permitting and regulatory agencies.

1:11:45 PM

MS. RICE explained that the type of public process becomes apparent. For example, the DOT&PF uses a checklist when paving a road whereas other projects can be very extensive. Once the DOT&PF gets through the public process, the project goes to final design. In a state-funded process the DOT&PF may perform the design work using a parallel process. The federal agencies can use each other's documents for making decisions. For example, if the FHWA is in agreement with the USACE, the Corps will use the federal document so the agency doesn't have to recreate the document. The process can include historic properties or any number of a long list of considerations. Although the communities have been involved, at this point the DOT&PF must get a local government concurrence and begins mapping the rights-of-way and identifies the DNR land needed. However, the DNR's analysis can hold up the process due to their backlog. Thus, the DOT&PF can certify a project or wait for another year or two for DNR's approval. One purpose of HB 371 is to allow DNR to honor the process and the DOT&PF's decision-making process to transfer the land. She acknowledged that it might sound like a "land grab" but actually the bill allows one agency to use another state agency's process to transfer the land without starting the process anew.

1:15:46 PM

JOHN BENNETT, Right-of-way Chief, Northern Region, Department of Transportation & Public Facilities (DOT&PF), explained the DNR has worked to adopt uniform language across the three authorities of aviation, highways and public facilities. As just discussed the DOT&PF and DNR have overlapping authorities that sometimes results in an unsolvable problem. For example, the DOT&PF holds a highway easement at Eureka Lodge on the Glenn Highway easement and DNR owns the underlying fee estate. The departments have identified the problem that an adjoining property owner has encroached in the right-of-way with sewage lagoons. One solution would be for the DOT&PF to vacate the easement, but to do so would only pass the problem on to DNR. The DNR was unable to resolve the matter with a preference right

sale. Thus, no solution was available under the current statutory language and the property owner is basically "left out in cold." This bill would solve this problem since DOT&PF would be vested with the fee simple title for the surface estate in the existing transportation facilities. With the uniform language the DOT&PF could dispose of the fee simple title interest to this property owner without needing to involve DNR. This would protect the state's interest by ensuring the same types of reservations, such as the mineral estate, are reserved just as it would be under a DNR land disposal process.

[1:18:17 PM](#)

MR. BENNETT pointed out one other issue is the land disposal language in AS 35 requires DOT&PF to dispose of any excess land to the person the department had obtained the land from, but the party may no longer be available. He questioned whether the person would even have any interest in obtaining the property. Yet another party may want the land, would really benefit from the land, and is willing to pay the fair market value. However, under the current statutes the state cannot sell to the interested party. This bill would solve that problem, he said.

MR. BENNETT pointed out another scenario, in which the state may not have acquired an entire property but just a thin strip for road widening. If the road ends up being relocated, it makes sense that the excess strip would go back to the original owner. In fact, to do anything else would "land lock" the parcel. The proposed language would solve these types of problems and make the state's disposal process much more efficient.

[1:21:20 PM](#)

REPRESENTATIVE ISAACSON asked whether he was speaking to Sections 4 and 5, which relates to DNR. He suggested that this might be a global application.

MR. BENNETT answered that the revisions would be to Sections 2, 4, and 10, which specifically addresses the disposal language for airports, highways, and public facilities. While these provisions address the DOT&PF's current statutes, Sections 1, 6,

and 9 that vests fee simple title for the existing facilities will now allow DOT&PF to dispose of the excess lands without involving the DNR. In response to a question, Mr. Bennett clarified that Sections 2, 4, and 10 relate to DOT&PF's land disposal for rights-of-way for airports, highways, and public facilities.

MR. BENNETT, in response to a question, referred to Sections 1, 6, and 9 that clarify the overlapping authorities that DNR and DOT&PF have on existing airport, highway, and public facility properties. For example, the DOT&PF only has an easement interest on the Glenn Highway so the aforementioned sections would vest fee simple title to DOT&PF so it can manage the disposal by itself.

CHAIR P. WILSON reiterated that these are very small parcels of land and DNR has more important parcels to contend with so delays often occur.

[1:24:07 PM](#)

MR. BENNETT agreed that this would speed up the process; however, some projects exist in which the department hits a roadblock and cannot accomplish under the existing language - for example, the Eureka Lodge project. In response to a comment, he agreed that the DOT&PF and the DNR cannot resolve the issues with the Eureka Lodge under the current language.

[1:24:50 PM](#)

SEAN LYNCH, Assistant Attorney General, Transportation Section, Department of Law (DOL), reviewed Section 13, which relates to DOT&PF's material sales contract exemption. He explained that Section 13 is an amendment to DNR's Alaska Land Act. Currently, AS 38.05.030 provides various exemptions to DNR's rules. For example, the DOT&PF has a long list of exemptions, including the railroad and the University of Alaska. This language creates a new subsection [h] that would exempt the material sales contracting requirements for DOT&PF's use of its pits. When DOT&PF develops a road with cut-and-fill construction, sometimes a deficit in the fill exists. The DOT&PF would open a material

site to obtain extra fill. When the project is finished the material site contains the overburden and the site remains available for later extraction of gravel, which are the material sites under question. Under DNR's Alaska Lands Act authority, the DNR can sell materials from state-owned material sites. This specific rule applies to DOT&PF's sites since DOT's material sites are state owned. He characterized it as overlapping authority, but when DOT&PF enters into material sites it must go to DNR to obtain a material sales contract. Under the bill, Section 13 relieves DNR of the responsibility of entering into contracts with DOT&PF.

[1:27:46 PM](#)

CHAIR P. WILSON related her understanding that the pits in question are DOT&PF's pits.

MR. LYNCH answered that the DOT&PF's highway and airport pits were opened by DOT&PF. In fact, DOT&PF carries the environmental permits. When third party sales occur, the DNR consults with DOT&PF on any intended sales and DOT&PF provides the permittee with the environmental conditions necessary to use DOT&PF's pits. He acknowledged that a private developer might open a DOT&PF site for a subdivision. When finished, the DNR would have another pit, but the vast majority of the pits are DOT&PF's pits.

[1:29:05 PM](#)

MR. LYNCH pointed out that two main concerns have been raised. First, Section 13 would give carte blanche authority to use any state-owned pit. There are two reasons this is not the case. First, this bill would amend the Alaska Land Act. Thus, this bill provides an instruction to DNR that DOT&PF is exempt from the contracting requirements under AS 38.05.550 - 38.05.565. A list of pits open for material sales contracting is maintained and this exemption would only apply to approximately 500 pits in the state on the list. However, this bill does not amend DOT&PF's statutes or give them any additional authority since the bill would only provide DNR with an exemption from the material sales contracts for DOT&PF's use of these pits. In

response to a comment, he agreed that this provision eliminates DNR's role in the transaction.

[1:30:50 PM](#)

MR. LYNCH further explained that DOT&PF currently has the authority over its rights-of-way and facilities. The bill would remove one step in the overlapping authority between the two departments, although DOT&PF would still act under its existing authority.

CHAIR P. WILSON suggested that this could save time and money.

[1:31:19 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked for clarification that Section 13 would only apply to the 500 pits associated with the Alaska Lands Act.

MR. LYNCH read subsection (h), "Notwithstanding the provisions in AS 38.05.550 - 38.05.56 ...." The DNR issues contracts for the pits under the aforementioned statutes. Secondly, concern was expressed that the DOT&PF would compete with the North Slope oil and gas users. He responded that aside from the Dalton Highway the DOT&PF doesn't have any reason or authority to go to North Slope development areas to seek materials. Additionally, the pits in question are the developers' pits and are not open for third-party sales. So any North Slope pit that is open for a specific DNR project is not one of the pits that DNR conducts its third-party sales. This essentially relieves DNR the duty to issue third party sales under its existing third party sales contract provisions.

[1:33:12 PM](#)

REPRESENTATIVE KREISS-TOMKINS read an excerpt from Mr. Mylius's letter dated March 12, 2014, which read, in part, "First, many gravel pits on state land are developed by and the gravel sold to private developers, municipalities, and other state agencies, federal agencies or others." He asked whether that statement is

inaccurate if the 500 pits are DNR pits originally as provided in statute.

MR. LYNCH answered no. Actually, DNR is authorized to sell materials from DOT&PF's pits so DOT&PF uses and third-party sales occur from these pits. He characterized them as shared use permits. The DOT&PF and DNR both coordinate these sales so problems have not arisen. He also recalled concern was expressed about the depletion of pits, which thus far has not been a problem. In fact, this bill wouldn't change the quantity of materials. Finally, DNR's ability to waive contracting requirements does not in any way cutoff third-party use of the pits.

[1:35:00 PM](#)

REPRESENTATIVE KREISS-TOMKINS related his understanding that Section 13 doesn't restrict DOT&PF so the department can take whatever material they need from the pits since DNR will no longer be the manager. He further understood this bill would simplify the process. He asked what would protect the private vendor or sale on pre-existing sales once DNR is no longer involved.

MR. LYNCH answered that this coordination currently happens and will continue to happen between the agencies. He said DNR and DOT&PF coordinate this since the third parties will have environmental conditions. For example, parties can't change the water flow in the pit due to the Clean Water Act. The permit outlines the conditions of use, such as identifying the area the third party can use and the area the DOT&PF will use in the shared usage. This effort will continue to happen. He confirmed if there is a valid existing right or a future right it would still fall under the same program.

[1:36:53 PM](#)

WYN MENEFEE, Chief of Operations, Central Office, Division of Mining, Land and Water, Department of Natural Resources (DNR), explained that the pits being referred to are designated material sites under AS 38.05.550. The current law says that

the state must designate a site in order to sell material from the site to the public. Thus the department will go through a public written decision identifying that the department will sell materials for a certain number of years up to a certain amount. Further, the decision outlines that the department will conduct multiple material sale contracts at the site. The DNR will issue material site contracts and does not need to public notice each of the contracts. The contracts are issued to anyone who asks for material so long as it is available.

MR. MENEFEЕ made a slight correction to Mr. Lynch's comments since very few of the sites are sole-purpose sites and the DNR sells to multiple individuals. Even on North Slope sites the DNR sells to multiple people from the same pit. He acknowledged that the DNR may have one operator who is the primary operator responsible for permitting. He agreed with Mr. Lynch on the coordination, such that if the DOT&PF is the pit operator anyone else coming into the pit would be subservient to the permit holder. This helps prevent violations on compliance with water discharge, whether it is for DOT&PF, an oil and gas operator, or anyone else who opened the pit. In response to a question, he answered that the DNR has dual management authority on the pits. Under the bill the DNR would not tell DOT&PF it needs a contract, but the DNR would manage the pits and authorize use to other entities. This management would be done under concurrence of the DOT&PF. He highlighted that the bill puts DOT&PF in "top dog" authority. If the DNR decides to issue another contract the department would consult with DOT&PF for approval.

[1:38:59 PM](#)

CHAIR P. WILSON offered her belief that the biggest concern is when people want to know if a third party has [a material site contract] for a certain amount of material, whether the DOT&PF can deny the material.

MR. MENEFEЕ answered that the DOT&PF would have the right to take whatever quantity of material it needs, but he related his understanding that if the DOT&PF wanted material it would need to pay the third party. He suggested Mr. Lynch could describe

this in more detail. The existing contracts would not prevent DOT&PF from taking all the material.

CHAIR P. WILSON asked for further clarification.

MR. LYNCH explained that take Article 1, Section XVI of Alaska's Constitution provides a private property right so if there is a contract for the material DOT&PF avoid taking it; however, if it was a necessity the DOT&PF would reimburse the private contractor.

[1:41:46 PM](#)

REPRESENTATIVE FEIGE related his understanding that Section 13 of HB 371 indicates DOT&PF would use the material for construction and maintenance of facilities the DOT&PF is constructing or operating. He asked, in DNR's experience, for any other uses the materials would be sold for and to what types of entities would buy them.

MR. MENEFEE answered that homeowners may want material for their driveways, road, building construction, renewable energy or a whole realm of construction projects. The DNR sells gravel, sand, riprap used on habitat projects or boat launches. The department also has hard rock that could be used for decorative housing walls, and a whole slew of reasons exist why people buy materials from state land.

[1:43:29 PM](#)

REPRESENTATIVE ISAACSON asked whether the North Slope Borough might have competing claims for the land itself. He asked whether specific language needed to be added.

MR. MENEFEE answered that this isn't just applicable to Section 13 but to any transfers to DOT&PF. He honed in on the question the committee is getting to, which is that if the borough has asked for municipal entitlement on the lands, and the DOT&PF asked for land to be transferred - under Sections 3, 5, and 8 - but the borough has selected the land for entitlement, the entitlement would be subservient to DOT&PF's needs. For

example, if DOT&PF indicates it needs an airport and material site, the DNR would likely deny the municipal entitlement at this time. Conceivably, once the project was finished the DOT&PF could give DNR the land, which could subsequently be given to a municipality. However, it is likely the municipality decided to select the land for revenue generation. He acknowledged there is a tension and competition for the land and this bill does put DOT&PF in first place. Thus, DNR would adjust the municipal entitlement program to consider this aspect as municipalities make land selections.

[1:46:25 PM](#)

REPRESENTATIVE ISAACSON related his understanding that the DOT&PF's intent is for public need and necessity. He stated that anything DOT&PF uses the land for would result in a public benefit so the borough or other third party will also benefit.

MR. LYNCH, using the example of the material sites at Happy Valley and Franklin Bluff, said that once DOT&PF receives sites and develops the sites as DOT&PF's maintenance stations that it will take an extra step from DNR to designate the sites as available for material sales. He recalled a specific list of sites where the public can receive materials. He suggested that if DNR added those sites as designated sites, the municipality could receive the materials along with any other third party. To his knowledge the aforementioned material sites are not on the designated material site lists.

[1:47:59 PM](#)

MR. MENEFEE said there is a difference between municipal entitlements and individuals just receiving material through material sale contracts. Municipal entitlements ask for full fee simple interest in the land so there is competition in that aspect. As Mr. Lynch described, which is also correct, if a municipality or borough just needs material it could come to a material site designation. Since the departments have joint management authority under the bill, he asserted that DNR could still designate a site per concurrence from the DOT&PF and could sell material to the borough with concurrence of the DOT&PF. If

the DOT&PF didn't need all the material, the DNR could sell it to the borough, just as it would for any other entity which has happened in the past. Thus, there are two different aspects: the municipal entitlement program and the material sales contracts, he said.

[1:49:15 PM](#)

REPRESENTATIVE ISAACSON related his understanding that the DOT&PF's priority is due to the specific purpose such as a road, airport, or public facility that benefits the borough and the public. The municipality shouldn't be making money at the expense of everyone else. He said, "We're not just talking about the State of Alaska's DOT&PF 'grabbing land' for some future purpose." He understood the DOT&PF would be using the land for a specific purpose. Thus, the bill would not preclude a subdivision of the state from making revenue. Instead, it sets up the priority that benefits everyone in Alaska.

MR. MENEFEЕ offered his belief that is correct. He understood that it would be DOT&PF's intent to provide a public benefit. He said he cannot speak for the boroughs as to whether the DOT&PF should be in the top position.

CHAIR P. WILSON remarked that the committee has not had any comments from boroughs. No one has complained, she said.

[1:51:04 PM](#)

REPRESENTATIVE KREISS-TOMKINS moved to the second point in the letter. He read, "DOT use may also not be the most economically valuable use of the land and DNR will therefore not have the ability to deny a DOT request even if there is a higher or better use of the land, such as land needed by a school district or for a public school." He asked whether any examples that might validate this scenario or if this is a purely theoretical concern.

MR. MENEFEЕ responded that is what happens when the DNR makes decisions on whether to designate a site to sell materials. The standard the department will undergo is a best interest decision

or what is in the best interest of the state. This bill would remove the decision process. He envisioned a situation might arise that would need to be resolved in a different fashion. For example, if a new pipeline is being built and material is needed that DOT&PF also needs that normally the DNR would wrestle the two interests and try to accommodate both. If not, the department would identify one as being more important than the other. Under the bill, if the DOT&PF asks for the material site then the DNR would not issue the decision. Of course, DOT&PF must evaluate the benefit through the department's public process. In the event some higher better interest was brought to the governor's attention, the governor might suggest the department's use isn't a good idea. He characterized it as being a different type of process and not one the DNR would normally take.

CHAIR P. WILSON suggested that legislators would likely make comments if it related to a pipeline. Either way, she anticipated that there would be ways to intervene.

[1:54:03 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked for any specific examples in which DOT&PF requested an easement or right-of-way that DNR found was not highest and best use.

MR. MENEFFEE cannot recall any denial although one request for a potential corridor arose. Over time land was conveyed to municipalities and the initial purpose was defeated due to how segmented the corridor became. The DNR worked with DOT&PF and the DNR closed the case since it didn't make sense any more. That was the only instance he could recall, he said.

[1:55:40 PM](#)

MR. BENNETT reported that he served 30 years as right-of-way chief for the Northern Region and he could not recall a situation in which an application to DNR for a right-of-way was denied. He said the reality is that DOT&PF provides public infrastructure for transportation in the state. In all the competing instances, whether it is for a school or a pipeline,

the projects rely on the DOT&PF to provide the infrastructure to provide access to those sites. He envisioned it would need to be a very important priority before one could consider other types of projects.

MR. MENEFEER acknowledged that at certain times the DNR has gone back to DOT&PF to identify other interests the DNR must accommodate. In those instances the DOT&PF has either reconditioned the application to adjust to the other needs or the department has withdrawn its application. Once the DNR has brought concerns forward, instead of denying the application, it has highlighted the concerns. The DOT&PF might adjust the project's size but DNR works diligently to find solutions.

[1:57:53 PM](#)

MS. RICE added she discovered the DOT&PF is not good about contacting the Division of Mine, Land, and Water since the DOT&PF would not know if someone applied with DNR. She emphasized that this is something the DOT&PF will add into the process so the DOT&PF will know any concerns or applications the DNR may have earlier in the timeframe. She reiterated that is the DOT&PF's intent.

CHAIR P. WILSON remarked that is important and she is glad to have that on the record.

[1:58:43 PM](#)

REPRESENTATIVE FEIGE referred to Section 16 of HB 371, which grants reciprocal easement rights. He asked for a brief history and background and the reasons to do so.

MR. LYNCH referred to Version C. The first sentence was removed and second sentence incorporates the reciprocal exchange. He highlighted that a reciprocal exchange has been agreed to but not all of the easements have transferred from the state government to the federal government. The first sentence mimics the federal statutes and language was removed to clarify that DNR was not being asked to take any action. This provision would authorize the DNR to extend the term of the easements

beyond the five year regulatory limitation upon a best interest finding by the DNR's commissioner.

[2:01:32 PM](#)

REPRESENTATIVE KREISS-TOMKINS related that Mr. Mylius pointed out 66 easement sites have been approved, but 67 have not. He related Mr. Mylius's understanding that many of the remaining sites do not have existing facilities and some are also important access sites. He asked more specifically which sites comprise the 67 remaining sites.

MR. LYNCH answered that the sites are all submerged land sites and benefit the U.S. Forest Service such as log transfer facilities, cabins, and trail access points. The revision to Section 16 was to address Mr. Mylius's concern that the term "grant" might direct DNR to make a decision on them so the language was revised to make it clear that wasn't the case, but was to give DNR the authority.

[2:02:59 PM](#)

CHAIR P. WILSON interjected Mr. Mylius's letter mentions the proposed CS, Version C addressed his concern.

MR. LYNCH agreed noting Mr. Mylius issued a follow-up letter dated March 19, 2014.

[2:03:04 PM](#)

REPRESENTATIVE KREISS-TOMKINS asked to double back to the previous questions about the DOT&PF's priority on state land. He referred to the highest and best use of land, recalling Mr. Menefee mentioned when other uses or parties are identified the DNR works with DOT&PF to resolve the matter to everyone's satisfaction. He understood the purpose of the bill is to streamline the process to make things more efficient and save time. He asked whether the inter-agency time is mostly paperwork "de rigeur" easements granted by DNR or if delays in projects are due to actively working with DNR. He asked how much time is typically involved. More specifically, he asked

how much time is involved if the DOT&PF wants land and no other parties are interested as compared to an instance in which DOT&PF wants land and other parties exist and the DNR works to recondition the request.

MR. BENNETT answered that the interests vary in level from rights-of-way permits to an interagency land management assignment which would be a stronger interest for an airport, and as previously discussed, a material site. Each is different with varying complexity. He couldn't estimate a timeframe, and it would also depend on what is on DNR's desk at the time of application. He hoped to capture all the concerns of the public in the process that Deputy Commissioner Rice outlined. The DOT&PF doesn't want to end up in the situation in which the DOT&PF has analyzed, mitigated, and commenced with the right-of-way acquisition only to discover the parcel is being planned for a campground. Although the DOT&PF has not yet had to appeal, the DOT&PF might need to reinitiate the entire process to seek an alternative site. There could be some other options; however, the DOT&PF believes all the interests of the public will be protected with the DOT&PF's process and nothing will be lost by streamlining the process as the bill presents.

[2:07:21 PM](#)

REPRESENTATIVE FEIGE moved to report the proposed committee substitute (CS) for HB 371, Version C, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 371 (TRA) was reported from the House Transportation Standing Committee.

[2:07:53 PM](#)

The committee took an at-ease from 2:07 p.m. to 2:12 p.m.

### **HB 378-DRIVER LICENSING**

[2:12:55 PM](#)

CHAIR P. WILSON announced that the final order of business would be HOUSE BILL NO. 378, "An Act relating to motor vehicle

registration; relating to drivers' licenses; relating to instruction permits; relating to commercial motor vehicles and commercial motor carriers; and providing for an effective date."

[2:13:11 PM](#)

REBECCA ROONEY, Staff, Representative Peggy Wilson, Alaska State Legislature, on behalf of the House Transportation Standing Committee, Representative Wilson, Chair, stated that HB 378 would add additional safety related improvements to the commercial permitting requirements in order to comply with federal mandates. The improvements would include raising the minimum age to obtain a commercial driver's license (CDL) learner's permit from 17 to 18 years of age. Additionally, it would limit the period of the CDL learner's permit validity time from two years to 180 days with an opportunity to renew for an additional 180 days. She offered her belief that HB 378 will make the highways safer by allowing the DMV the right to refuse to register a motor carrier that does not meet federal safety requirements. Further, a CDL permit will be disqualified in the same manner as a license if the driver is operating while non-compliant with federal safety regulations, is operating out of service, or has been convicted of manslaughter or negligent homicide resulting from driving a motor vehicle or for the commission of a felony using a motor vehicle. Under the bill, texting while driving will be considered a serious traffic violation, which could result in a CDL operator losing his/her license or permit for a period of time.

[2:15:15 PM](#)

MS. ROONEY advised that if parts of this bill are not passed, Alaska will be out of compliance with federal regulations. Non-compliance could result in the federal government decertifying Alaska's CDL program, which could jeopardize Alaska's federal highway funding. She related that based on 2014 apportionments DOT&PF reports it could mean a \$34 million loss of federal funding. Additional language would also clarify that the registration fees charged for vehicles over 10,000 pounds for personal use have the same rates as commercial vehicles. Although the bill does not change the current fee schedules, it

emphasizes that all vehicles over 10,000 pounds will pay commercial fee rates for registration.

[2:16:46 PM](#)

REPRESENTATIVE GATTIS suggested that texting while operating commercial vehicles should result in CDL license revocation since commercial drivers should be held to a higher standard and those drivers should not be texting.

[2:17:51 PM](#)

AMY ERICKSON, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), stated she personally concurred with Representative Gattis.

[2:18:25 PM](#)

MS. ERICKSON emphasized the importance to keep the commercial driver's licensing in compliance. She then provided a section-by-section analysis of HB 378. Section 1 would give the DMV the ability to refuse to register a vehicle if the owner has failed to comply with federal reporting requirements. Currently the DMV does not have authority to refuse to register a vehicle if it has been placed out of service and the DMV was found out of compliance in this area by the Federal Motor Carrier Safety Administration (FMCSA).

MS. ERICKSON stated that Section 2 would allow the DMV to suspend or revoke a registration of a vehicle if the carrier or the vehicle has been placed out of service by the FMCSA. Section 3, related to fees, would clarify that vehicle registration for residents 65 years and older applies only to those vehicles under 10,000 pounds. This provision is in statute, but the provision is reconfigured in the bill.

[2:19:29 PM](#)

MS. ERICKSON related that Section 4 would clarify the fees for vehicles for non-commercial vehicle that weigh less than 10,000 pounds do not change. Section 5 would establish the free fees

except for low-speed trucks, vans, or trailers are based on the vehicle's weight. As Ms. Rooney previously highlighted, the fees for those vehicles will now be comparable so all of the fees will be based on vehicle weight if they are over 10,000 pounds. This change stems from complaints the Ombudsman's office received on fees on vehicles over 10,000 pounds. Since the complainant's vehicle was registered under his/her personal name, the operator objected to paying commercial fees. The statutes set rates for vehicles under 10,000 at \$100 and vehicles over 10,000 at \$268. This section will make it clear the fee structure is based on weight.

[2:20:54 PM](#)

REPRESENTATIVE GATTIS asked whether the farm exemption will still apply.

MS. ERICKSON answered this bill would not change farm vehicles.

CHAIR P. WILSON offered her belief that it would make it more consistent for commercial vehicle enforcement, as well.

[2:22:00 PM](#)

REPRESENTATIVE ISAACSON answered that last year the legislature passed a provision that exempted vehicles up to 14,500 pounds. He asked for further clarification on how this bill would affect the exemption.

MS. ERICKSON clarified that that the aforementioned bill would relate to the commercial vehicle enforcement while HB 378 is limited only to fees.

REPRESENTATIVE ISAACSON appreciated this clarification, but he suggested that this might be confusing for enforcement officers. He suggested this bill could create inconsistencies in the vehicle forms. He maintained his concern.

[2:23:20 PM](#)

DAN SMITH, Director, Anchorage Office, Division of Measurement Standards & Commercial Vehicle Enforcement (DMSCVE), Department of Transportation & Public Facilities (DOT&PF), stated that commercial vehicle enforcement for regulating intra-state vehicles uses either a gross vehicle weight rating or gross combination weight rating. This bill relates to unladen weight but the commercial enforcement is based on the gross vehicle weight rating as set by the manufacturer.

[2:24:08 PM](#)

CHAIR P. WILSON asked whether this bill will cause questions with respect to enforcement.

MR. SMITH responded that the vehicle enforcement officers check for valid registration; however, the division does not enforce the type of regulation the committee is considering. He did not believe it will add any confusion for his enforcement officers.

[2:24:38 PM](#)

REPRESENTATIVE ISAACSON expressed concern that the 14,500 pound limit might pose issues. He wondered if an enforcement officer would need to consider whether any violation exists if the officer or trooper pulls someone over and discover the vehicle registration is for a commercial vehicle. For example, the officer might notice that the driver doesn't have the gross vehicle weight posted or certain equipment affixed permanently.

MR. SMITH related that this section relates to the fees for registration and it will not cause problems for the commercial vehicle enforcement officer or others who may be trained to perform commercial vehicle enforcement. During the driver interview, the enforcement officer will be interested in the origin, destination, hazardous material, size of the load, and weight of the load. Further, the officer would also be gathering other facts, such as driver qualifications, medical fitness cards, and proof of insurance. Changes to registration fees would not adversely affect the interview or dictate the outcome, he said.

[2:27:32 PM](#)

REPRESENTATIVE ISAACSON asked whether the registration shown to the traffic officer would identify the vehicle as commercial or if it will be generic.

MS. ERICKSON offered her belief that the registration fees will appear just like any regular vehicle registration form. It would list vehicle registration fees at \$100, and motor vehicle registration taxes (MVRT) at \$70, along with the total of \$170. He did not believe the registration form highlights commercial fees, but just shows the registration fee amount.

REPRESENTATIVE ISAACSON offered to follow up later.

MS. ERICKSON added that this provision is DMV's policy. The division has been charging fees for commercial motor vehicles over 10,000 pounds since 1978. The division was questioned about the fees by the ombudsman's office and this bill attempts to make specific fees clearer for the public since some complaints have been filed.

CHAIR P. WILSON offered her belief that the fee schedule seems clear to her.

[2:29:13 PM](#)

REPRESENTATIVE GATTIS remarked that only a few people are involved in farming in Alaska. In her experience, farmers avoid weigh stations; however, she was aware of vehicle enforcement issues that have arisen when farmers have hauled fence pipes, which are the same pipes that drillers use. She acknowledged it can be a difficult struggle to differentiate between commercial and non-commercial carriers. She said that farmers tend to carry the rules in their vehicle glove boxes to help clarify the laws related to farming for weigh station officers. She remarked that Alaska isn't a huge agricultural state. She pointed out that it is tough to train everyone on small minute rules. She hoped that last year's law will not affect anything beyond the fees.

MS. ERICKSON continued with the section-by-section review of HB 378. She reported that page 6 of Section 7, will add the fee structure into the MVRT chart. She related that Section 8 will clarify that this applies to non-commercial instruction permits and allows a person to obtain an instruction permit for a certain class of license after five years. Currently, the DMV cannot revert back to an instructional permit if the person has previously held that class of license. For example, a woman who suffered a brain injury and held a CDL license was not able to drive for several years during her recovery. She needed an instructional permit to allow her to practice, but the DMV could not issue the license. This section allows the DMV to issue a license for a certain class of license, such as a CDL, but also allows the person to obtain an instructional permit to practice for a different class of vehicle. In response to a question, she agreed that the DMV would be allowed to issue a non-commercial instructional permit and the person could obtain a renewal after five years has passed.

[2:33:25 PM](#)

REPRESENTATIVE GATTIS related a scenario in which an injured person had previously held a license since he/she was 16. She said the person is now 45 years old but needs an instructional permit to practice to pass the commercial driver's license test. She was unsure where the five years fits in for renewal.

MS. ERICKSON answered that currently a person cannot get an instructional permit if he/she previously held a license. She related the license term is for five years. Thus, licenses are issued for a five-year period and the renewal period would be for five years.

REPRESENTATIVE GATTIS described a personal scenario in which this provision would have been very helpful.

[2:35:00 PM](#)

MS. ERICKSON related that Section 9 was added to meet federal compliance and will require an applicant for commercial instructional permit to be 18 years of age instead of 17. It

would also modify the statute for federal compliance by limiting the validity of an instruction permit to 180 days with a renewal of 180 days, which was previously two years.

[2:35:27 PM](#)

REPRESENTATIVE FEIGE referred to Section 8, noting a person at least 21 years old must accompany the driver even though it is for commercial instruction. He did not see a similar requirement for Section 9.

MS. ERICKSON responded that this is an omission that will need to be fixed in the bill.

CHAIR P. WILSON indicated she plans on holding the bill since several provisions will need to be fixed.

[2:36:20 PM](#)

REPRESENTATIVE ISAACSON referred to Section 9 that reduces the license period from two years to 180 days. He questioned whether the person obtaining the CDL will acquire an experience driving in snow since he/she could conceivably not have had winter driving experience. He wondered how this would help keep drivers and the public safer.

MS. ERICKSON was unsure of how to respond. She pointed out that the person can renew his/her license and thereby holds the license for a full year.

REPRESENTATIVE ISAACSON suggested the person could also apply for a CDL without renewing his/her instructional permit.

MS. ERICKSON agreed, but if the driver passes the CDL test he/she would be licensed and able to drive.

REPRESENTATIVE ISAACSON expressed the concern that this change could set up a situation that might lead to more accidents and not make Alaska's highways safer. In the aforementioned scenario, the DMV will not be able to verify the person's

ability to drive an "18 wheeler." The person may be qualified to drive but may not been tested in snow or icy conditions.

CHAIR P. WILSON related her understanding that currently the potential driver doesn't have to have any instructional permit and this bill would add it.

MS. ERICKSON reiterated the person has to be a qualified driver and must pass the driving test to become licensed.

[2:39:02 PM](#)

CHAIR P. WILSON suggested that this could apply to anyone seeking any driver's license.

REPRESENTATIVE ISAACSON related his understanding that the bill increases the provisional license requirements to 18 years of age. He wondered if it was possible for a person to have a CDL and not be 18 years of age and only have a learner's permit for his/her personal license, which seems inconsistent. However, he suggested that the DMV consider requiring winter driving experience.

[2:40:39 PM](#)

REPRESENTATIVE FEIGE asked for further clarification on the minimum age for a CDL.

MS. ERICKSON answered that the minimum age is 19 for intra-state commerce and 21 years of age for inter-state commerce.

[2:41:01 PM](#)

REPRESENTATIVE FEIGE asked whether the prior rule was for two years, but the federal government is setting the standard at 180 days.

MS. ERICKSON answered that she does not know the logic for the change since this pertains to federal law.

[2:41:31 PM](#)

MS. ERICKSON related that Section 10 will allow the DMV to disqualify a commercial driver who is a permit holder in the same manner as if the driver held a commercial license. Section 11 would add provisions to comply with federal regulations and makes operating a vehicle that has been placed out of service subject to civil penalties. Section 12 would add texting to the list of serious traffic violations for which a driver could be disqualified. Section 13 would define commercial motor carrier and Section 14 would establishment an effective date for federal compliance that will take effect the day after the bill is signed by the governor. Finally, Section 15 would set the effective date for the fees on January 1, 2015.

REPRESENTATIVE GATTIS remarked that she would like the sponsor to consider a stiffer fine for texting. She offered her belief that a commercial driver has a higher obligation to the public to comply.

REPRESENTATIVE FEIGE referred to page 9, lines 10-11 of Section 11. He wondered what the language "in violation of a railroad-highway grade crossing" refers to in existing law.

MS. ERICKSON said she did not know.

[2:44:02 PM](#)

JOANNE OLSEN, Division Operations Manager, Division of Motor Vehicles (DMV), Department of Administration, responded that certain commercial vehicles are mandated to stop at any railroad crossing, such as school buses, passenger buses, tour buses, and vehicles hauling a certain amount of hazardous materials.

CHAIR P. WILSON remarked that she thinks it is a good idea to have that provision in the law.

[2:45:09 PM](#)

REPRESENTATIVE FEIGE referred to page 8, line 24 of Section 10. He asked whether driving after being placed out of service refers to the person or the vehicle.

CHAIR P. WILSON related her understanding that it addresses this in three separate instances: driving after being placed out of service, operating a commercial vehicle that has been placed out of service, or operating a commercial vehicle belonging to a commercial motor carrier that has been placed out of service.

MS. ERICKSON answered that it would apply to the driver, the vehicle, and also the carrier if the commercial motor vehicle has been placed out of service.

MR. SMITH added that the responsibility for driving while being placed out of service would fall on the operator of the vehicle.

[2:47:23 PM](#)

REPRESENTATIVE FEIGE suggested the language is somewhat vague and could be clearer.

MR. SMITH explained that a driver may be placed out of service if he/she is no longer able to drive. The driver may tell the officer he/she is not feeling well or is incapacitated. The vehicle may be out of service due to the vehicle's mechanical condition, if the load is not properly secured, or the driver may not have qualifications to operate the vehicle. Additionally, the company may be out of service for incurring a long history of violations such as employing drivers not qualified to operate their vehicles. He advised that this language attempts to cover all possible scenarios.

[2:48:55 PM](#)

REPRESENTATIVE FEIGE referred to the paragraph (7), which read, in part"**..., or operating a commercial vehicle belonging to a commercial motor carrier that has been placed out of service....**" He asked how the driver would know the motor carrier was placed out-of-state. He further asked whether a requirement should require proof that the driver knows.

CHAIR P. WILSON remarked that is a good thought.

[2:49:54 PM](#)

REPRESENTATIVE ISAACSON commented he registered a vehicle on the webpage and it was very simple. He wondered if this seems to "cave in" to federal requirements since the state could lose federal funds. He asked for the number of times the state has lost funds due to non-compliance.

MS. ERICKSON answered that the department is not aware of any instances. She acknowledged this was a policy discussion the department also held. For example, the department considered whether these regulations are so onerous that the state is willing to face non-compliance and a loss of federal funding. She advised that the department did not find the regulations too onerous.

[2:51:34 PM](#)

REPRESENTATIVE ISAACSON related that the DMV's regulations were proposed in October 2013 with an effective date of July 8, 2014; however Section 15 has an effective date of January 2015. He then acknowledged some sections have an immediate effective date so he stands corrected. He suggested these must be the sections related to federal compliance.

[2:52:23 PM](#)

REPRESENTATIVE ISAACSON referred to page 2, line 19, which read, "**(12) the applicant is a commercial motor carrier prohibited from operating by a federal agency.**" He expressed concern that the federal government would dictate intra-state transportation. He referred to existing law on page 1, line 6, of Section 1 which read, "(a) The department may refuse to register a vehicle if ...." Thus, the department may refuse to register a vehicle. He asked whether the agency has some discretion on whether to register a vehicle even if the federal government prohibits it from operating.

MS. ERICKSON answered yes; the language reads "may" refuse to register a vehicle so the department has discretion.

REPRESENTATIVE ISAACSON referred to Section 2, which again indicates that the department "may" so it appears the department has discretion in that section. He asked what would happen if the DMV enabled a carrier to operate in Alaska. He asked whether the state would be in violation of federal law and risk not receiving \$34 million in federal funding.

[2:55:13 PM](#)

KATHLEEN STRASBAUGH, Attorney, Legislative Legal Counsel, Legislative Legal Services, Legislative Affairs Agency, offered her belief that federal road safety rules apply in instances in which federal funds are used, which is often the case for state roads and federal roads. She anticipated that the person who supervises the application for federal funding would be in a better position to answer. She thought that there would be two components to consider: federal inter-state regulation and safety regulation for roads involved in inter-state travel and another provision of federal funding for Alaska's roads.

[2:56:32 PM](#)

ANMEI GOLDSMITH, Assistant Attorney General, Transportation Section, Department of Law, related her understanding in terms of federal funding, that if the state's statutes and regulations are out of compliance, the state stands a chance of losing a portion of the basic program funds. This bill would bring the state into compliance; however, if the state doesn't enforce it, enforces it badly, or makes a few mistakes, it will not likely jeopardize funding. She said that funding would only be jeopardized if the state fails to pass the bill and continue to be out of compliance.

[2:57:20 PM](#)

REPRESENTATIVE ISAACSON returned to his earlier concern about the commercial vehicle weight of 10,000 pounds. Since this bill uses the language "commercial vehicle" throughout and includes a vehicle of 10,000 pounds or more of unladen weight. He asked whether the state is sure it is not categorizing a vehicle that is 10,000 pounds or more as a commercial vehicle.

MS. ERICKSON answered no. She explained that this bill is strictly for the purpose of fees. She explained that commercial vehicles are defined for enforcement purposes ranging from 14,500 to 26,000 pounds.

[2:58:23 PM](#)

REPRESENTATIVE ISAACSON highlighted one purpose of the bill is to make Alaska's highways safer. He asked how many accidents have happened or a history of accidents that necessitate these changes.

MS. ERICKSON was not aware of any crash data.

REPRESENTATIVE ISAACSON suggested it would be helpful to have the crash data.

CHAIR P. WILSON remarked that DMV will probably not have crash data and the committee may need to obtain it elsewhere.

[2:59:10 PM](#)

REPRESENTATIVE GATTIS asked whether the bill will help to ensure that Alaska's law conforms to federal law in order to be in compliance and be eligible for federal funds.

MS. ERICKSON answered yes. She said in some ways it is about the federal funds, but it is also about strengthening the CDL programs nationwide. Alaska wants to be consistent with other states' laws and requirements.

[2:59:59 PM](#)

REPRESENTATIVE GATTIS suggested that the state is working to nationalize the CDL testing.

CHAIR P. WILSON referred to Section 1 and emphasized that the department "may" refuse to register a vehicle under certain conditions.

3:01:00 PM

AVES THOMPSON, Executive Director, Alaska Trucking Association, Inc. (ATA), stated that the number one issue, referring to line 19, page 2, which read, "(12) the applicant is a commercial motor carrier prohibited from operating by a federal agency." He said that federal agencies can only issue out of service orders for interstate and cannot issue out of service orders for intra-state carrier since the federal agency does not have any jurisdiction.

MR. THOMPSON referred to page 3, line 24, which read:

(12 The owner or operator is a commercial motor carrier prohibited from operating by a federal agency;  
or  
(13) the commercial motor vehicle is subject to an out-of-service order issued by a state or federal agency.

MR. THOMPSON asked whether paragraph (13) speaks to the commercial motor vehicle order issued by a state or federal covers intrastate commerce but not the owner or motor carrier.

CHAIR P. WILSON suggested that is why the aforementioned language reads "may."

3:03:38 PM

MR. THOMPSON referred to page 7, to proposed Section 9. He recalled that Representative Feige earlier referred to a 21 year old being present in the cab while a commercial instructional permittee is driving. He said the ATA agrees 100 percent with this provision. He recalled on page 8, line 24, again Representative Feige asked the question of how the driver will know. He respectfully requested the committee consider adding "knowingly" in two clauses to clarify the driver's intent. First, on page 9, paragraph (7), which would read, in part. "...knowingly driving after being placed out of service" and "knowingly operating a commercial vehicle belonging to a

commercial motor carrier that has been placed out of service  
...." Finally, he referred to page 9, line 7, which "or who knowingly operates...."

MS. ERICKSON deferred to the Department of Law to respond.

[3:05:43 PM](#)

MS. GOLDSMITH remarked that inserting "knowingly" in those three places is something she will think about and discuss with enforcement. She said she really can't give the legislature an answer right now. However, she can say that when the vehicles out of service, the officer will place a big orange sticker on the windshield so it is pretty difficult to not know if the person is driving a vehicle that has been placed out of service. She offered to further consider the ATA's issue.

CHAIR P. WILSON wondered how difficult it would be to remove the sticker.

MS. ERICKSON turned to the fee section on page 4 of HB 378. She said a motor home is listed [in paragraph (2)] with fees set at \$100; however, there are some motor homes that are used for commercial use. She suggested that adding the language, "not used or maintained for the transportation of persons or property for hire or other commercial use."

CHAIR P. WILSON remarked that the committee would likely develop a committee substitute.

[3:07:57 PM](#)

CHAIR P. WILSON, after first determining no one else wished to testify, closed public testimony on HB 378.

[HB 378 was held over.]

[3:09:03 PM](#)

**ADJOURNMENT**

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