

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

March 27, 2014

1:04 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. 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."

- MOVED CSHB 378(TRA) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

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
03/20/14	(H)	Heard & Held
03/20/14	(H)	MINUTE(TRA)
03/25/14	(H)	TRA AT 1:00 PM BARNES 124
03/25/14	(H)	-- MEETING CANCELED --
03/27/14	(H)	TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

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.

AVES THOMPSON, Executive Director
Alaska Trucking Association
Anchorage, 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.

ACTION NARRATIVE

[1:04:59 PM](#)

CHAIR PEGGY WILSON called the House Transportation Standing Committee meeting to order at 1:04 p.m. Representatives Lynn, Gattis, Feige, and P. Wilson were present at the call to order. Representatives Kreiss-Tomkins and Isaacson arrived as the meeting was in progress.

HB 378-DRIVER LICENSING

[1:05:32 PM](#)

CHAIR P. WILSON announced that the only 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."

[1:06:19 PM](#)

REPRESENTATIVE FEIGE moved to adopt the proposed committee substitute (CS) for HB 378, labeled 28-LS1541\0, Strasbaugh, 3/26/14, as the working document. [Version 0 was before the committee].

REPRESENTATIVE LYNN objected for the purpose of discussion.

[1:06:50 PM](#)

AMY ERICKSON, Director, Division of Motor Vehicles (DMV), Department of Administration (DOA), explained the changes in the proposed committee substitute (CS) for HB 378, Version O. Section 4 would clarify that motor homes used for personal and recreational use will continue to have a \$100 registration fee. Fees for all trailers not used commercially will be set at \$30. Language was added to Section 9 to require commercial instructional permit holders to be accompanied by a person who is at least 21 years of age and licensed to operate that class of vehicle. Since Representative Feige found the language in Section 10 confusing the bill drafter simplified it to be clear that commercial instruction permit holders will be disqualified in the same manner as a commercial license holder if they are driving after being placed out of service.

MS. ERICKSON related additional language was removed that would disqualified a driver who operates a commercial vehicle belonging to a motor carrier that has been placed out of service, based on information from the Federal Motor Carrier Safety Administration (FMCSA) who thought the language was not necessary. The Alaska Trucking Association suggested adding the word "knowingly" to Section 11 so a driver would not be subject to civil penalties unless they "knew" they were operating a vehicle that had been placed out of service. She reiterated that the consequences of decertification of the commercial drivers' license (CDL) program would be very serious. Failure to pass HB 378 would have consequences, such that the DMV would be prohibited from issuing, renewing, transferring, or upgrading licenses for commercial drivers. Thus all CDLs would be invalid, she said.

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CHAIR P. WILSON referred to page 4, line 19 of Version O. She pointed out the language for paragraph (2) lists \$100 for the fee.

MS. ERICKSON referred to page 4, line 29, noting the fees for a trailer is \$30.

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REPRESENTATIVE FEIGE referred to page 2, line 19, and paragraph (12). He asked how the DMV would handle the request from a construction company to license a vehicle that is not a commercial motor if the applicant was also a motor vehicle carrier who was prohibited from operating as a commercial motor vehicle carrier at the time.

MS. ERICKSON, related she spoke with the Department of Transportation & Public Facilities and the DMV may refuse to register a vehicle that is used in personal use but owned by the principal of a company; however, the DMV would use its discretion and work with the DOT&PF to not refuse to register the vehicle, she said.

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AVES THOMPSON, Executive Director, Alaska Trucking Association, referred to page 9, line 1, and asked whether Ms. Erickson had addressed that the word "knowingly" would not be required in this section. He referred to page 9, line 2, indicating the word "knowingly" would not be required. On page 4, line 9 the word "knowingly" would be required. The reason for these changes is that in the first two instances the driver is present at the time of the issuance of the "out of service" order, but in the third case, the driver may not be aware of the motor carrier is being placed out of service.

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CHAIR P. WILSON asked for clarification on the page numbers in Version O.

MR. THOMPSON answered he doesn't currently have Version O in front of him since he is at the Minneapolis airport.

CHAIR P. WILSON assured him the changes the Alaska Trucking Association asked for are incorporated in Version 0.

MR. THOMPSON just wanted to be sure. He acknowledged that the consequences of decertification are very severe. The federal highway dollars can be replaced with state dollars but the DMV must be able to issue valid commercial drivers' licenses.

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CHAIR P. WILSON read the portion of Version 0, on page 9, lines 13-15, subsection (m) which read, as follows:

A person who violates the standards for operating a commercial motor vehicle or who knowingly operates a commercial motor vehicle that has been placed out of service as set out by the department in regulation
...."

CHAIR P. WILSON offered her belief that the changes accomplish the concerns the ATA had expressed.

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REPRESENTATIVE GATTIS asked for the page and line number of the language that identifies that the driver must be personally served.

MS. ERICKSON referred to Version 0, page 9, lines 13-`55, as previously read, which includes the "knowingly" language.

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CHAIR P. WILSON read, [page 9, lines 16-19], which read, in part, "An employer who knowingly allows an employee to drive in violation of an out-of-service order or in violation of a railroad-highway grade crossing is subject to civil penalties
...."

MR. THOMPSON expressed an interest in the language for disqualification of drivers. He described three instances where

a driver may be disqualified. One instance is when the driver out of service; the second instance is when the vehicle is placed out of service; and the third instance is when the motor carrier has been placed out of service. He maintained that in the first instance the driver would know that he has been placed out of service. In the second instance the driver would know the vehicle has been placed out of service. In the third instance, the driver may not know the employer of the motor carrier has been placed out of service by the FMCSA. He would like to protect the driver in the third instance.

[1:16:56 PM](#)

MS. ERICKSON answered that she believes the third instance refers to language that the FMCSA encouraged the division to remove so the knowingly would not apply.

CHAIR P. WILSON commented that the aforementioned provision was removed. It currently reads that driving after being placed out of service or operating a commercial vehicle that has been placed out of service. The language that discussed that the driver would be liable has been removed.

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REPRESENTATIVE FEIGE referred to page 9, line 2 and asked whether it should read "knowingly" operating a commercial vehicle since that seems to be the same principle as the language in Section 11. He envisioned that a driver might not know the vehicle is out of service.

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ANMEI GOLDSMITH, Assistant Attorney General, Transportation Section, Department of Law, referred to page 8 of Section 10 and stated that the statutes AS 28.33.140(a) are intended to allow DMV the authority to disqualify a driver after a conviction of a list of criminal offenses. The driver would have been adjudicated for conviction of one of the list of 10 offenses and would have been adjudicated guilty. Due process requires that a person know he/she has been charged of a crime. Therefore, if a

person has been found guilty of driving after being placed out of service, that person would be aware he/she was convicted of the offense. She said this is the reason "knowingly" is not required in this subsection, since the person has been charged and found guilty of the offense. She referred to page 9, line 14, subsection (m), and noted it is appropriate for "knowingly" since this subsection assesses a civil penalty. Thus, it is appropriate for a person to need to be aware that he/she is operating a commercial motor vehicle that has been placed out of service.

[1:20:16 PM](#)

REPRESENTATIVE FEIGE referred to Section 10, paragraph (7). He asked whether within the original statute that sets up the offense it specifies "knowingly."

MS. GOLDSMITH advised that for all criminal offenses there must be a mental state and "knowingly" is one of the mental states defined in the criminal statutes. When the offense does not identify the specific mental state required, another statute supplies "knowingly." She characterized this as being the default mental state.

[1:21:13 PM](#)

REPRESENTATIVE KREISS-TOMKINS referred to one point raised by the Alaska Trucking Association, [letter dated March 26, 2014) to point 4, which is why "driving" was used when throughout the rest of the bill "operating" is used. He referred to page 9, line 1 to subparagraph (A). In response to Chair Wilson, he referred to "driving" on page 9, line 1 of Version O.

MS. GOLDSMITH responded that "driving" and "operating" are slightly different, with "operating" being more inclusive. She suggested that it was written like this to clarify that subparagraph (A) refers to the driver who has been placed out of service. There are three different things an out-of-service order can apply to: the driver, the vehicle, or the motor carrier. She clarified that subparagraph (A) refers to the driver, and (B) refers to the vehicle.

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REPRESENTATIVE GATTIS referred to page 9, line 13, which refers to a "person."

REPRESENTATIVE FEIGE asked whether the language, which read a "person", would allow the state to pursue a corporation that owns the commercial motor vehicle.

MS. GOLDSMITH answered yes; that a person is all inclusive of a natural person, corporation, company, or partnership.

[1:24:03 PM](#)

REPRESENTATIVE LYNN removed his objection.

There being no further objection, Version 0 was adopted as the working document.

[1:24:36 PM](#)

REPRESENTATIVE FEIGE made a motion to adopt Amendment 1, labeled 28-LS1541\0.1, Strasbaugh, 1/27/14, which read, as follows:

Page 4, line 2, following "AS 28.10.421(b)(1)(A)",
Insert "(b)(2),"

REPRESENTATIVE GATTIS objected for purpose of discussion.

[1:25:16 PM](#)

REPRESENTATIVE FEIGE referred to page 4, line 2, which lists the three categories of exemptions from registration for persons 65 years or older. As it is currently written, passenger vehicles, motor cycles and trailers are included. This amendment would also exempt a motor home from registration.

CHAIR P. WILSON explained that this would add "(b)(2)" to the list of exemptions.

REPRESENTATIVE FEIGE agreed.

REPRESENTATIVE LYNN joked whether he should declare a conflict of interest [due to his age].

REPRESENTATIVE GATTIS removed her objection. There being no further objection, Amendment 1 was adopted.

[1:27:10 PM](#)

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

[1:27:15 PM](#)

REPRESENTATIVE ISAACSON moved to report HB 378, Version 0, labeled 28-LS1541\0, Strasbaugh, 3/26/14, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, the CSHB 378(TRA) was reported from the House Transportation Standing Committee.

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ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 1:28 p.m.