

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

February 26, 2015

1:48 p.m.

**MEMBERS PRESENT**

Representative Neal Foster, Co-Chair  
Representative Shelley Hughes, Co-Chair  
Representative Charisse Millett  
Representative Louise Stutes  
Representative Matt Claman  
Representative Dan Ortiz

**MEMBERS ABSENT**

Representative Benjamin Nageak

**COMMITTEE CALENDAR**

HOUSE BILL NO. 88

"An Act relating to remittance of tire fees; and providing for an effective date."

- MOVED HB 88 OUT OF COMMITTEE

HOUSE BILL NO. 91

"An Act relating to operating a motor vehicle in lanes of traffic."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 88

SHORT TITLE: FEES FOR TIRES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/30/15	(H)	READ THE FIRST TIME - REFERRALS
01/30/15	(H)	TRA, FIN
02/24/15	(H)	TRA AT 1:00 PM CAPITOL 17
02/24/15	(H)	Heard & Held
02/24/15	(H)	MINUTE(TRA)
02/26/15	(H)	TRA AT 1:00 PM CAPITOL 17

BILL: HB 91

SHORT TITLE: OPERATING MOTOR VEHICLES IN TRAFFIC LANE

SPONSOR(s): HUGHES

01/30/15	(H)	READ THE FIRST TIME - REFERRALS
01/30/15	(H)	TRA, FIN
02/24/15	(H)	TRA AT 1:00 PM CAPITOL 17
02/24/15	(H)	Heard & Held
02/24/15	(H)	MINUTE(TRA)
02/26/15	(H)	TRA AT 1:00 PM CAPITOL 17

#### **WITNESS REGISTER**

STUART KRUEGER, Staff  
Representative Shelley Hughes  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Outlined the changes in Version P of HB 91, on behalf of the prime sponsor, Representative Shelley Hughes.

RODNEY DIAL, Lieutenant; Deputy Commander  
A Detachment  
Division of Alaska State Troopers (AST)  
Department of Public Safety (DPS)  
Ketchikan, Alaska

**POSITION STATEMENT:** Testified and answered questions during the discussion of HB 91.

#### **ACTION NARRATIVE**

[1:48:02 PM](#)

**CO-CHAIR SHELLEY HUGHES** called the House Transportation Standing Committee meeting to order at 1:48 p.m. Representatives Claman, Millett, Stutes, Ortiz, Foster, and Hughes were present at the call to order.

#### **HB 88-FEES FOR TIRES**

[1:48:20 PM](#)

CO-CHAIR HUGHES announced that the first order of business would be HOUSE BILL NO. 88, "An Act relating to remittance of tire fees; and providing for an effective date."

[1:49:18 PM](#)

CO-CHAIR FOSTER moved to report HB 88 out of committee with individual recommendations and the accompanying fiscal note. There being no objection, HB 88 was reported from the House Transportation Standing Committee.

[1:50:01 PM](#)

The committee took an at-ease from 1:50 p.m. to 1:52 p.m.

CO-CHAIR HUGHES passed the gavel to Co-Chair Foster.

**HB 91-OPERATING MOTOR VEHICLES IN TRAFFIC LANE**

[1:52:27 PM](#)

CO-CHAIR FOSTER announced that the final order of business would be HOUSE BILL NO. 91, "An Act relating to operating a motor vehicle in lanes of traffic."

[1:52:38 PM](#)

REPRESENTATIVE STUTES moved to adopt the proposed committee substitute (CS) for HB 91, labeled 29-LS0182\P, Martin, 2/23/15 as the working document.

CO-CHAIR FOSTER objected for the purpose of discussion.

[1:53:02 PM](#)

CO-CHAIR HUGHES asked her staff to explain the changes in the proposed committee substitute (CS) for HB 91, Version P.

[1:53:12 PM](#)

STUART KRUEGER, Staff, Representative Shelley Hughes, Alaska State Legislature, on behalf of the prime sponsor, explained the changes contained in Version P. He referred to page 1, line 4 of subsection (c), which read, "A person operating a motor vehicle on a roadway consisting of two or more lanes traveling in the same direction may not drive in the left lane of the roadway except when ...."

MR. KRUEGER said that this change was made to emphasize this bill's intention to reserve the left lane for passing, with exceptions on multi-lane roadways. The questions about where and when this law will apply were addressed by this provision and the exceptions listed in the bill by providing a clear

description of "a roadway with two or more lanes traveling in the same direction."

[1:54:11 PM](#)

MR. KRUEGER directed attention to the next change, on page 1, line [12] of Version P, [to paragraph] (4), which allows for persons to use the left lane when "road conditions make driving in the right lane unsafe." This language could include unsafe weather conditions, obstacles in the roadway, and unsafe traffic conditions during times of unavoidable full saturation of the roadway. For example, he said, unsafe conditions would include rush hour traffic. This language will help clarify when and where this law would apply, he said.

MR. KRUEGER referred to page 1, lines 13-14 of the original version of HB 91 to subsection (d), which was removed.

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REPRESENTATIVE ORTIZ asked for the effect of removing subsection (d).

MR. KRUEGER answered that subsection (d) was removed to avoid any contradictory intent. If vehicles in the left lane are not moving fast enough so that cars are passing them by passing in the right lane, the vehicles should not have been in the left lane to begin with, he said. Having a provision that prohibits people from impeding traffic tended to give the impression that vehicles are allowed to travel at that speed in the left lane in the first place. In response to a question, he said the original language stated that the driver cannot be in the left lane and impede or block traffic. Unless the driver is in the left lane in the process of passing, that vehicle should not be in the left lane, he said.

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REPRESENTATIVE CLAMAN understood the concern about commuters coming from Mat-Su valley driving on the Glenn Highway or Seward Highway; however, in addition to the Glenn Highway, this language would also apply to other highways, including Tudor Road, Raspberry Road, Northern Lights Boulevard, and countless state-owned roads in Anchorage.

MR. KRUEGER agreed; however, the exceptions under subsection (c), in particular, paragraph (3), which read, "preparing for a

left turn at an intersection or into an alley, private road, or driveway; or ...." would apply in the majority of cases since drivers will be preparing for a left turn at some point so it leaves enough latitude for drivers.

1:58:07 PM

REPRESENTATIVE CLAMAN referred to Minnesota Drive, which is three lanes with very limited left turns, such that this bill would prohibit a driver from driving in the left lane during rush traffic unless the driver was passing another vehicle.

MR. KRUEGER suggested paragraph (4) will cover the aforementioned scenario by providing the exception that "road conditions make driving in the right lane unsafe."

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REPRESENTATIVE CLAMAN related a scenario in which drivers are driving on Minnesota Drive and it's a totally clear road, without any construction, on a bright sunny day, during rush hour traffic. He interpreted the language to mean that under this bill drivers should leave the left lane open.

MR. KRUEGER suggested that road conditions could include traffic. In further response to a question, he acknowledged that the bill does not specify that language pertaining to rush hour traffic, but after holding conversations with the DOT&PF, he felt confident the language applied.

REPRESENTATIVE CLAMAN asked whether a definition specifies that traffic is part of road conditions.

MR. KRUEGER answered that he was not aware of a definition.

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RODNEY DIAL, Lieutenant; Deputy Commander, A Detachment, Division of Alaska State Troopers (AST), Department of Public Safety (DPS), introduced himself.

2:00:25 PM

REPRESENTATIVE MILLETT recalled at a previous hearing on this bill that Lieutenant Dial indicated it is fairly rare for citations to be issued for obstructing traffic by driving in the

left lane. She asked whether it is also rare for drivers to linger in the left lane.

LIEUTENANT DIAL answered that it a common occurrence in some areas.

[2:00:38 PM](#)

REPRESENTATIVE MILLETT related her understanding that it is rarely cited because there is lack of clarity in the statutes, the regulations, or perhaps both.

LIEUTENANT DIAL answered that both would apply. As stated at the previous hearing, the statute, [AS 28.35.140] has been used to address some of the concerns presented. He has consulted with the Department of Law, as well as discussing this matter with two regional district attorneys. Their interpretation was that although this statute was sufficiently broad to be used as authority, it was not likely the intent of the legislature and could be closely scrutinized by the court. He suggested that enforcement would be impacted by a lack of specific authority.

[2:01:47 PM](#)

REPRESENTATIVE MILLETT asked if the provision that prohibits drivers from impeding traffic with five cars backed up behind them would apply to multi-lane roads.

LIEUTENANT DIAL answered that the five car law applies to a single lane road or one lane going in each direction and a driver that backs up five or more vehicles and has failed to pull over.

[2:02:19 PM](#)

REPRESENTATIVE CLAMAN asked for further clarification that the Glenn Highway near Sutton with one lane in each direction is considered a one-lane road.

LIEUTENANT DIAL answered yes.

[2:02:44 PM](#)

REPRESENTATIVE CLAMAN asked whether the Glenn Highway between Palmer and Anchorage with a divided highway and median would be considered a two-lane or three-lane road.

LIEUTENANT DIAL answered that it would be referred to as a multi-lane road.

2:03:05 PM

REPRESENTATIVE ORTIZ asked whether this bill would help provide clarity to enforce left-lane traffic laws.

LIEUTENANT DIAL answered that the greatest benefit of this bill would be the volunteer compliance of drivers who are aware it is proper road courtesy to use the right lane when practical. He acknowledged that at times the AST has not enforced the use of left lane or obstruction of left lane traffic since the statutory authority was vague.

2:04:37 PM

REPRESENTATIVE ORTIZ asked for statute cite.

LIEUTENANT DIAL referred to AS 28.35.140, which read, as follows:

Unlawful obstruction or blocking of traffic; duty to yield to following traffic.

(a) A person may not purposely obstruct or block traffic on any roadway by any means. However, a service vehicle such as a bus, garbage truck, tow truck, or ambulance may make brief stops on a roadway, which stops on the roadway are necessary in the performance of its services.

LIEUTENANT DIAL acknowledged that the language probably referred to a person who might block a road by placing a log or rock in the roadway or leaving a car in the road. He offered his belief that the language is vague enough to interpret this to mean two vehicles attempting to create a "rolling roadblock" on a multi-lane road with traffic backed up behind them, which would allow law enforcement to cite either driver. He stated that the Department of Law somewhat agreed that it would be a pretty loose interpretation of the law, and probably a little bit of a stretch.

2:05:50 PM

REPRESENTATIVE ORTIZ asked what is most helpful about HB 91, Version P.

LIEUTENANT DIAL answered that drivers will voluntarily comply and that compliance will increase the traffic flow and make roads safer, preventing obstruction of traffic; however, from an enforcement standpoint, it would be somewhat difficult to observe the behavior. For example, it could be possible for vehicles to be moving forward slightly with the intent of passing or else slowing down to merge behind the vehicle in the right lane. Thus it would be somewhat difficult to enforce, but the department believes there are benefits through voluntary compliance.

[2:06:57 PM](#)

REPRESENTATIVE CLAMAN said it sounded like this law would not be enforced if Version P was passed, but that the AST hopes it will encourage people to drive in a more courteous manner.

LIEUTENANT DIAL disagreed, but clarified that it would be difficult to enforce since the officer would have to show that one of the exemptions did not apply; for example, in terms of loitering in left lane, that the driver wasn't moving slightly faster in the process of passing, or if the driver were merging, or avoiding a pothole. Still, he acknowledged that [Version P] has benefits, but it will be somewhat difficult to enforce. He said in some instances people will admit their intention was to slow traffic and "play road cop" and in those instances the AST could use this law. However, he said it is not something frequently encountered.

[2:08:28 PM](#)

REPRESENTATIVE CLAMAN characterized this as being somewhat aspirational, to encourage people to stay out of the left lane; however, a penalty is created if they don't comply. He asked whether having this penalty will cause people to behave differently.

[2:08:58 PM](#)

LIEUTENANT DIAL answered yes. He stated that in his experience in stopping vehicles that are slowing traffic flow down, that some people have a belief that they are entitled to do so since other people are driving too fast. If this bill passes these drivers could create "the perfect traffic stop" because they are likely to admit they intentionally obstructed traffic in order to slow traffic down.

2:09:29 PM

REPRESENTATIVE CLAMAN asked whether he has ever cited drivers for driving too slowly and if these drivers admitted they were trying to slow traffic down.

LIEUTENANT DIAL acknowledged that he has heard people make similar comments during traffic stops, usually along the lines of remarking that it doesn't make any difference if the other driver arrives 30 seconds later. He agreed it rarely occurs, but it has happened.

2:10:05 PM

REPRESENTATIVE CLAMAN referred an earlier comment he made about Minnesota Drive or Tudor Road. He asked for further clarification on the enforcement reality on urban streets for a law that basically says stay out of the left lane.

LIEUTENANT DIAL responded that he has held discussions with Alaska State Troopers who work on highways about how enforcement would happen in areas of high traffic density. He said it comes down to a reasonable belief of how the department would communicate to the court system that a reasonable person believes that the driver's actions in these circumstances were in violation.

REPRESENTATIVE CLAMAN clarified that his interest is not with respect to the court system. Instead, he related a scenario in which the enforcement officer is driving on Minnesota Drive at 5 p.m. and all three lanes are full of traffic. He asked for the practical realities of trying to enforce provisions in this bill that require drivers to stay in the right lane.

LIEUTENANT DIAL answered that in the aforementioned scenario, he would not enforce the law since it would not be appropriate to do so.

2:12:02 PM

REPRESENTATIVE MILLETT pointed out that one of the concerns stems from a letter members received from the Municipality of Anchorage, Anchorage Police Department (APD). She said the MOA's biggest concern is the bill might encourage speeding on highways such as the Glenn Highway, in which vehicles already exceed the speed limit by three to five miles per hour (mph). Thus this bill may encourage more speeders on a dangerous

highway. She said that the APD suggested carpooling, or establishing provisions that vehicles with only one person might be restricted to the right hand lane. She said most people driving on the Glenn Highway are single drivers. Further, the APD and the Anchorage Metropolitan Area Transportation Solutions (AMATS) expressed concern that the Metropolitan Transportation Plan (MTP) may need to be redone for to incorporate the no left lane traffic rule unless passing. She acknowledged that these Anchorage organizations had some concerns, but perhaps the proposed committee substitute will ease some of their concerns.

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LIEUTENANT DIAL answered that he has not read the MOA's letter; however, traffic law typically involves officer discretion and he did not envision a scenario in which officers would take the limited amount of time they have to cite drivers under certain circumstances that could technically be in violation of this law, such as congestion. He did not view that as being a real concern. Further, he did not believe the court would honor those citations since it would not appear to be a reasonable application of this law.

[2:14:44 PM](#)

CO-CHAIR HUGHES, referring back to Minnesota Drive and drivers trying to get to work, asked about the exception on page 1, line 12, paragraph (4) and whether the language "road conditions make driving in the right lane unsafe" would apply. If so, the person would not be in violation due to the road conditions, she said.

LIEUTENANT DIAL agreed that is his understanding.

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REPRESENTATIVE STUTES asked whether any language defines traffic as a "road condition."

LIEUTENANT DIAL answered that he was not certain if the law specifically mentions it or if it is just the general practice that law enforcement officers typically use. He said that the AST would consider high traffic, traffic going excessively slow, or snow as being road conditions that make driving in the right lane unsafe.

[2:16:33 PM](#)

CO-CHAIR HUGHES added that in researching this issue that the language will also cover items such as ice, snow, water, ice berm between lanes, fog, and traffic as constituting adverse road conditions. She noted that it might include other items, but she recalled that it was all encompassing.

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CO-CHAIR FOSTER removed his objection to adopt the proposed committee substitute.

REPRESENTATIVE CLAMAN asked whether the one remaining person on teleconference could testify first on Version P.

CO-CHAIR FOSTER related his understanding that the person is no longer on line.

REPRESENTATIVE CLAMAN said he had no objection to the committee substitute being under consideration.

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CO-CHAIR FOSTER confirmed that he has removed his objection. There being no further objection, Version P was before the committee.

[HB 91 was held over].

[2:19:33 PM](#)

REPRESENTATIVE CLAMAN said he was unsure if the person who was on teleconference may wish to testify on the bill at a later date. He asked whether public testimony could be reopened at the next hearing on HB 91 if any public members wish to testify.

CO-CHAIR FOSTER said he was not opposed to do so.

[2:19:53 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 2:19 p.m.