

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 13, 2018

1:19 p.m.

MEMBERS PRESENT

Representative Louise Stutes, Co-Chair
Representative Adam Wool, Co-Chair
Representative Matt Claman
Representative Harriet Drummond
Representative Chuck Kopp
Representative Mark Neuman
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative David Eastman (alternate)
Representative Gabrielle LeDoux (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 314

"An Act relating to commercial motor vehicles."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 314

SHORT TITLE: DEFINITION OF COMMERCIAL MOTOR VEHICLES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/26/18	(H)	READ THE FIRST TIME - REFERRALS
01/26/18	(H)	TRA, STA
03/01/18	(H)	TRA AT 1:15 PM BARNES 124
03/01/18	(H)	-- MEETING CANCELED --
03/13/18	(H)	TRA AT 1:15 PM BARNES 124

WITNESS REGISTER

JOHN BINDER, Deputy Commissioner
Department of Transportation & Public Facilities (DOT&PF)
Anchorage, Alaska

POSITION STATEMENT: Presented HB 314 on behalf of the sponsor,
House Rules by request of the Governor.

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

POSITION STATEMENT: Provided a sectional analysis of HB 314 on
behalf of the sponsor, House Rules by request of the Governor.

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

POSITION STATEMENT: Testified in support of HB 314.

ARTHUR KEYES, Director
Division of Agriculture
Department of Natural Resources (DNR)
Palmer, Alaska

POSITION STATEMENT: Testified in favor of HB 314.

BRYCE WRIGLEY
Alaska Farm Bureau
Delta Junction, Alaska

POSITION STATEMENT: Testified in support of HB 314.

JOHN DART, Owner
Dart-AM Farms, LLC
Manley Hot Springs, Alaska

POSITION STATEMENT: Testified in support of HB 314.

WILLIAM LONGBRAKE
Palmer, Alaska

POSITION STATEMENT: Testified in support of HB 314.

ACTION NARRATIVE

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CO-CHAIR ADAM WOOL called the House Transportation Standing
Committee meeting to order at 1:19 p.m. Representatives Neuman,
Sullivan-Leonard, Drummond, Kopp, and Wool were present at the
call to order. Representatives Claman and Stutes arrived as the
meeting was in progress.

HB 314-DEFINITION OF COMMERCIAL MOTOR VEHICLES

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CO-CHAIR WOOL announced that the only order of business would be HOUSE BILL NO. 314, "An Act relating to commercial motor vehicles."

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JOHN BINDER, Deputy Commissioner, Department of Transportation & Public Facilities (DOT&PF), stated that HB 314 proposes to bring Alaska's definition of a commercial motor vehicle into the twenty-first century by making changes that will benefit farmers who transport agricultural commodities or supplies in Alaska. He said existing restrictions on farm vehicles limit their movement to within 150 miles of the farmers' farms. The proposed legislation would allow farmers to operate anywhere in Alaska. He said the Moving Ahead for Progress in the 21st Century Act (MAP-21) made the federal regulations of farmers less restrictive than currently existing language in Alaska Statutes. Deputy Commissioner Binder related that HB 314 also proposes that the transportation of hazardous materials should be amended to only apply to quantities of substances that require a placard, regardless of the size of the vehicle. Finally, he said that under HB 314, the definition of "school bus" would be updated to provide clarity as to when school buses are exempt from commercial motor vehicle requirements.

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DAN SMITH, Director, Division of Measurement Standards & Commercial Vehicle Enforcement, Department of Transportation & Public Facilities (DOT&PF), offered a sectional analysis of HB 314. He said Section 1 would add "or area" to "vehicular way", because the two go together; the definition of "vehicular way or area" is found under [regulation]. He explained that "covered farm vehicles" [found on page 2, line 4, of HB 314], does not mean vehicles that have covers but rather vehicles that are covered under exemption. He said the term was generated under MAP-21.

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REPRESENTATIVE NEUMAN clarified that "covered" meant covered by insurance.

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MR. SMITH continued. He stated that presently, under 19-10-399, farm vehicles operating more than 150 air miles from the center of a farm would be regulated as a motor carrier. The proposed legislation would change that to allow the farm vehicles to operate anywhere in the state of Alaska as a farm vehicle, which would relieve them from a lot of regulations required of motor carriers. In response to a question from Co-Chair Wool, he paraphrased the definition of "commercial motor carrier", which is found under Alaska Statute Title 28 and read as follows:

(2) "commercial motor carrier" means a person that provides transportation for compensation, or that provides a vehicle to a person or entity that provides transportation for compensation, including the person's agents, officers, representatives, employees responsible for hiring, supervising, training, assigning, or dispatching of drivers, and employees overseeing the safety, installation, inspection, and maintenance of motor vehicle equipment and accessories.

MR. SMITH directed attention to Section 2, which clarifies language related to hazardous materials.

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REPRESENTATIVE NEUMAN brought attention back to Mr. Smith's statement about 150 miles, and he asked if the statute makes a distinction between "motor carrier" and "carrier" based on whether it carries personal or other people's property.

MR. SMITH answered yes, there is a distinction between a private motor carrier and a motor carrier that would be in the business of transporting other people's goods; each would have a different type of operating authority.

REPRESENTATIVE NEUMAN said often a farmer shipping cattle to a slaughterhouse will pick up cattle from other farmers. He asked if the farmer would have to have a different license to be able to do that. He remarked that that would be impractical.

MR. SMITH answered no. He said there are additional exceptions outside of what are being outlined under HB 314 that "would allow relief from regulations for those drivers."

CO-CHAIR WOOL asked Mr. Smith to confirm that he was saying that "they're exempted from commercial requirements, even if they're carrying for someone else - it's not their own farmed goods."

MR. SMITH answered that is correct. He emphasized that there are numerous exemptions, including for transferring materials, livestock, and fertilizer. He noted that fertilizer carried in quantity by a motor carrier would be treated as hazardous material. He said, "The farm vehicle gets to carry a much larger capacity or normal value of that hazardous material, and we don't regulate it as a hazardous material, because they do get the exceptions, and it's the same exceptions that exist for the livestock." In response to a follow-up question from Representative Neuman, he confirmed that a Class 3 placard covers a lot of the flammable liquids that a farmer would probably use in ordinary operations of his/her farm, and he said there is a quick delineation between farm vehicles and motor carriers to make things easier for the enforcement community, emergency response community, and farming community. In response to Co-Chair Wool, he reaffirmed that a unique identifier on the farmer's registration or [the Class 3 placard] makes for easy identification.

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MR. SMITH returned to the sectional analysis. He said in Section 2, on page 2, line [15], the word "motor" is added before "vehicle" to clarify that the vehicle is not powered by animals. He then pointed further in Section 2, where specification is made as to how much a commercial motor vehicle weighs in relation to carrying hazardous materials to clarify when the quantity of hazardous material is not sufficient to require a placard. The final part of Section 2 addresses school buses, he said. Presently AS 19.10.399 states that school buses are not commercial vehicles, which he said is too broad to line up with the federal definition. He said exceptions for school buses are "from home to school and school to home," which he said is called "school bus operations". However, if a motor carrier uses a school bus, for example, outside of the school year to take tourists out to see the glacier, then they are motor carrier passengers and are regulated as such. In response to a question, he noted that "school bus operations" is defined on page 4, lines 4-5.

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CO-CHAIR WOOL asked about school bus use for school kids going on field trips. He said, "I assume that's still ... school bus operation."

MR. SMITH said there is a fine line there. He explained that school bus operation includes students taking a bus from school and back for the purpose of learning. He said bussing a sports team is "a little different." He mentioned the 150-mile limit and said when a school team is bussed from Anchorage to Valdez, "that is then regulated as a board carrier of passengers," which is in line with federal definition. He said federal government has jurisdiction over passengers in the state of Alaska, and federal rule is that certain requirements need to be met for vehicles carrying more than 15 passengers, for instance, a log book and certain qualifications for the driver.

CO-CHAIR WOOL asked, "And what if it's less than 150 miles, say, Anchorage to Chugiak?" He specified he was talking about a sporting event on a school bus between two adjacent towns that are less than 150 miles apart.

MR. SMITH responded that that would be a motor carrier of passengers. In response to Representative Neuman, he confirmed that the driver of that bus would have to have [a commercial driver's license (CDL)].

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REPRESENTATIVE CLAMAN observed that school busses are motor vehicle carriers as opposed to commercial motor vehicles. He added, "So, it's not as if they're outside of regulation; they're just being regulated as commercial motor vehicles."

MR. SMITH confirmed Representative Claman was correct.

REPRESENTATIVE CLAMAN noted that there are huge farm vehicles that get transported. He asked if that is treated differently from an oversized load that is not owned by farmers.

MR. SMITH answered that the intent of HB 314 is to affect only legal sized vehicles. Size and weight requirements would still be in effect. He said there is an exception for implements of husbandry. He explained that would not be the transport of a large combine, but rather a pull-behind implement, which has been allowed exceptions for "their permitting of those oversized movements."

REPRESENTATIVE CLAMAN noted that language on page 3, lines 28-29, states, "used to transport agricultural commodities, livestock, machinery", and a combine is agricultural machinery, and he offered his understanding that Mr. Smith was saying a combine wider but not heavier than the limits would still be covered under existing commercial regulations and would not be exempted from those under HB 314.

MR. SMITH clarified he was saying that the requirements of Chapter 25 speak to "the requirements for oversize and overweight movements" and would still be in effect "for these farm vehicles and the farm machinery."

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AVES THOMPSON, Executive Director, Alaska Trucking Association (ATA), noted that ATA is a statewide organization representing the interests of its nearly 200-member companies from Barrow to Ketchikan. He said freight movement is an essential part of the economy. He said he is testifying in support of HB 314. He opined that any effort to clarify statutes makes it easier for the industry to understand and comply with those statutes. He stated that HB 315 would reduce the burden on farmers and farm vehicles by removing the 150-mile restriction on farmers transporting their "covered farm vehicles", allowing them to operate statewide. Further, the proposed legislation makes clear that if those farmers choose to "enter the for-hire world," then they would have to comply with commercial vehicle rules and regulations. He stated that HB 314 would provide certainty for motor carriers of passengers by clearly identifying school bus operations; school buses are not considered commercial vehicles while conducting "school bus operations". He noted school bus operators will have to comply with commercial vehicle rules and regulations if they engage in for-hire transport in other than school bus operations. Mr. Thompson stated that HB 314 also provides clarification for carriers transporting hazardous materials in amounts that require a placard. He said ATA urges the House Transportation Standing Committee to consider the changes proposed under HB 314 favorably, as they will provide valuable clarifications.

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ARTHUR KEYES, Director, Division of Agriculture, Department of Natural Resources (DNR), testified in support of HB 314 as a bill that makes sense for Alaska's farmers. For example, he said McKinley Meat & Sausage, in Palmer, Alaska, is the primary

United States Department of Agriculture (USDA) slaughter facility in the state. Many farmers traveling to the facility are traveling beyond the current 150-mile limit. He reiterated that HB 314 makes sense for Alaska farmers, and he said it would provide clarity and certainty in regard to operating a farm and transporting farm goods.

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BRYCE WRIGLEY, Alaska Farm Bureau, testified in support of HB 314. He opined that the 150-mile limit was a federally imposed restriction that never made sense for most Western states and especially not Alaska. He added, "If there was ever a state that needed to make this change, it is Alaska." Mr. Wrigley said HB 314 would make it easier for farmers to get their crops to market and supplies to farms, and it would reduce confusion for motor vehicle enforcement officers in terms of whether a farm vehicle "is operating within its legal sphere." Mr. Wrigley said there are not many communities in Alaska that are within 150 miles of each other; therefore, "this is an important opportunity for us to ... connect those markets with the farms."

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JOHN DART, Owner, Dart-AM Farms, LLC, stated that Manley Hot Springs is 165 miles by road from Fairbanks, Alaska, and 500 miles one way to Anchorage, Alaska, where he sells produce. He stated that HB 314 "makes 100 percent sense for our farms." He said one of the big challenges he faces as a grower/packer/shipper is that his company has to do everything. He said he thinks legislators need to understand that his company helps other farmers; those in the business want to see the industry grow. He expressed his hope that the committee would consider and pass HB 314, and he indicated he would [testify when HB 314 reached] "the Senate side." He said all the testimony he heard from representatives of the state agency and from the trucking industry made sense. He expressed appreciation for the hard work of the committee.

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WILLIAM LONGBRAKE relayed that Country Garden Farms ships sod statewide and also mills hay. He said he helps farmers in Delta sell their hay in the larger market in Palmer and Anchorage. He said he supports all the comments that had been made thus far. He stated there is a growing livestock and grain market, and he opined that [HB 314] would really help to grow that industry.

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CO-CHAIR WOOL retroactively opened public testimony on HB 314, acknowledging that the committee had been hearing it.

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REPRESENTATIVE NEUMAN, directing his remarks to Mr. Smith, noted that many times a farmer will use a flatbed to move hay or fertilizer. He offered his understanding that those vehicles are labeled as commercial vehicles. He questioned how such a vehicle could have "a farm truck license plate on it or a plate that says farm."

MR. SMITH replied, "This change would affect vehicles below 26,001 pounds; so, those are vehicles that do not require a commercial driver's license." He said it would also apply to those vehicles above that weight, which includes a typical tractor/trailer combination. He said, "Those will also fall under the definition of covered farm vehicle, and they would get those exceptions." He continued:

As to a farm plate: Yes, that would still be a requirement ... for them to have a farm plate. They would not have to have the markings of a commercial vehicle; that farm plate would identify them as a farmer's vehicle, and they would then get the exceptions."

REPRESENTATIVE NEUMAN asked if, under HB 314, a vehicle over 10,000 pounds would not have to register as a commercial vehicle but would register as a farm vehicle. He added, "Even if it had a gross vehicle weight of 25,000 and carrying capacity of 100,000?"

MR. SMITH said he would not speak for the Division of Motor Vehicles in answering the question in terms of title and registration; however, in terms of enforcement, he answered that "it would not be a commercial vehicle in our eyes."

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CO-CHAIR WOOL read language from [paragraph (1) of Section 2, on page 2, lines 14-15], which read:

(1) "commercial motor vehicle" means a self-propelled or towed motor vehicle

CO-CHAIR WOOL then directed attention to ensuing language [from subparagraph (C), on page 2, lines 19-22], which read:

(C) that
(i) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more

CO-CHAIR WOOL asked, "Would that qualify as a commercial vehicle rating?"

MR. SMITH clarified, "We're still saying you're a commercial vehicle, but you make the exceptions that get you out of the requirement for those vehicles."

CO-CHAIR WOOL offered a scenario in which someone who owns a farm brings hay from Homer to Anchorage, and then on the return trip, he/she brings something back that is "strictly for commercial load," "non-farm related." He asked, "Could you be dual purpose?"

MR. SMITH answered, "We see that every single day." He offered examples. He said that is what the division is trying to determine. If, for example, someone was carrying hazardous materials, the division "would be looking to make sure that you're meeting all those emergency response requirements." He added, "Yes, it doesn't pigeon-hole you into one type of operation." In response to a follow-up question, he explained that the requirements for commercial vehicles are quite extensive; therefore, it is easy to identify a vehicle that is being operated as a commercial vehicle. He listed markings, tires, and breaks, as examples. Farm vehicle [identification] is a little harder, he said, which is why "that farm plate" is key for making the determination.

CO-CHAIR WOOL surmised that if a vehicle was being used for dual purposes, then the division would recognize it as a commercial vehicle, even if for half the trip it was being used as a farm vehicle.

MR. SMITH answered yes. He said, "That's more likely the situation."

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CO-CHAIR WOOL announced that HB 314 was held over.

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ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 1:53 p.m.