

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

March 27, 2018

1:21 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**

CS FOR SENATE BILL NO. 163 (STA)  
"An Act relating to commercial motor vehicles."

- MOVED CSSB 163 (STA) OUT OF COMMITTEE

HOUSE BILL NO. 136  
"An Act relating to motor vehicle franchises, motor vehicle transactions, motor vehicle dealers, motor vehicle manufacturers, and motor vehicle distributors."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: SB 163

SHORT TITLE: DEFINITION OF COMMERCIAL MOTOR VEHICLES

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/26/18	(S)	READ THE FIRST TIME - REFERRALS
01/26/18	(S)	TRA, STA
03/01/18	(S)	TRA AT 1:30 PM BUTROVICH 205
03/01/18	(S)	Heard & Held
03/01/18	(S)	MINUTE (TRA)
03/06/18	(S)	TRA AT 1:30 PM BUTROVICH 205

03/06/18 (S) Moved SB 163 Out of Committee  
 03/06/18 (S) MINUTE(TRA)  
 03/07/18 (S) TRA RPT 1DP 1NR 1AM  
 03/07/18 (S) NR: STEDMAN  
 03/07/18 (S) DP: EGAN  
 03/07/18 (S) AM: WILSON  
 03/13/18 (S) STA AT 3:30 PM BUTROVICH 205  
 03/13/18 (S) Moved CSSB 163(STA) Out of Committee  
 03/13/18 (S) MINUTE(STA)  
 03/14/18 (S) STA RPT CS 4DP 1NR SAME TITLE  
 03/14/18 (S) DP: MEYER, GIESSEL, COGHILL, EGAN  
 03/14/18 (S) NR: WILSON  
 03/21/18 (S) TRANSMITTED TO (H)  
 03/21/18 (S) VERSION: CSSB 163(STA)  
 03/22/18 (H) READ THE FIRST TIME - REFERRALS  
 03/22/18 (H) TRA, STA  
 03/27/18 (H) TRA AT 1:15 PM BARNES 124

BILL: HB 136

SHORT TITLE: MOTOR VEHICLE DEALER FRANCHISES

SPONSOR(s): CLAMAN

02/20/17 (H) READ THE FIRST TIME - REFERRALS  
 02/20/17 (H) TRA, L&C  
 03/16/17 (H) TRA AT 1:00 PM CAPITOL 17  
 03/16/17 (H) <Bill Hearing Canceled>  
 03/21/17 (H) TRA AT 1:00 PM BARNES 124  
 03/21/17 (H) Heard & Held  
 03/21/17 (H) MINUTE(TRA)  
 04/13/17 (H) TRA AT 1:00 PM BARNES 124  
 04/13/17 (H) -- MEETING CANCELED --  
 03/27/18 (H) TRA AT 1:15 PM BARNES 124

**WITNESS REGISTER**

GRAHAM JUDSON, Staff  
 Representative Louise Stutes  
 Alaska State Legislature  
 Juneau, Alaska

**POSITION STATEMENT:** Explained the differences between CSSB  
 163(STA) and HB 314.

**ACTION NARRATIVE**

[1:21:53 PM](#)

**CO-CHAIR ADAM WOOL** called the House Transportation Standing Committee meeting to order at 1:21 p.m. Representatives Wool, Sullivan-Leonard, Claman, Kopp, and Stutes were present at the call to order. Representatives Neuman and Drummond arrived as the meeting was in progress.

**SB 163-DEFINITION OF COMMERCIAL MOTOR VEHICLES**

[1:22:27 PM](#)

CO-CHAIR WOOL announced that the first order of business would be the CS FOR SENATE BILL NO. 163(STA), "An Act relating to commercial motor vehicles."

CO-CHAIR WOOL noted that HB 314, which the committee had heard during its meeting on March 8, 2018, is the companion bill to CSSB 163(STA); however, some changes were made in CSSB 163(STA).

[1:23:28 PM](#)

GRAHAM JUDSON, Staff, Representative Louise Stutes, Alaska State Legislature, explained the differences between CSSB 163(STA) and HB 314. He referred to the definition of "school bus" in HB 314, [found in Section 3, paragraph 15, on page 3, line 31, through page 4, line 3, of HB 314], which read as follows:

(15) "school bus" means a passenger motor vehicle that is designed or used to carry more than 10 passengers in addition to the driver and that is likely to be used to transport public pre-elementary, elementary, or secondary school students to and from school;

MR. JUDSON said that in the definition of "school bus" under CSSB 163(STA), the word "public" has been removed. He surmised the reasoning behind that change was to include all schools.

[1:25:36 PM](#)

CO-CHAIR STUTES moved to report CSSB 163(STA) out of committee [with individual recommendations and the accompanying fiscal notes].

[1:25:52 PM](#)

CO-CHAIR WOOL announced there being no objection CSSB 163(STA) was reported out of the House Transportation Standing Committee.

[1:25:57 PM](#)

The committee took an at-ease from 1:26 p.m. to 1:28 p.m.

**HB 136-MOTOR VEHICLE DEALER FRANCHISES**

[1:28:45 PM](#)

CO-CHAIR WOOL announced that the final order of business would be HOUSE BILL NO. 136, "An Act relating to motor vehicle franchises, motor vehicle transactions, motor vehicle dealers, motor vehicle manufacturers, and motor vehicle distributors."

[1:29:00 PM](#)

CO-CHAIR STUTES moved to adopt the proposed committee substitute (CS) for HB 136, Version 30-LS0561\R, Bannister, 3/21/18, as the working document. There being no objection, Version R was before the committee.

[1:29:28 PM](#)

REPRESENTATIVE CLAMAN, as prime sponsor, presented HB 136. He explained the impetus to introduce HB 136 stemmed from conversations about the need to make updates to Alaska Statutes relating to franchise agreements between automobile dealers and automobile manufacturers. He said much of the discussion centered around warranty practices and franchise termination. After HB 136 was heard in 2017, there was significant pushback from the automobile manufacturers. The bill sponsor's office brought together dealers and manufacturers in January 2018 to work on an acceptable revision, which is the revision before the committee today in Version R.

REPRESENTATIVE CLAMAN said Version R would update warranty policy to be more consumer friendly; it would provide customers who live in remote locations, either off the road system or more than 100 miles from a dealer, with a reasonable option for warranty coverage. Currently, customers often must pay to get their vehicles to and from an authorized dealer for warranty repairs. Under HB 136, the manufacturer would be responsible for warranty repairs in the remote locations or shipping the vehicles to and from remote locations to authorized locations at no cost to the consumers. He said HB 136 would also update the rates that manufacturers will pay dealers for warranty work. The updated rates may not be less than the rates that an auto

dealer charges customers for similar non-warranty retail work. He stated, "This equalizes the rate for repair work and warranty work across the board.

REPRESENTATIVE CLAMAN said HB 136 would amend statutes concerning termination and succession of franchises. Manufacturers must have a good cause for terminating franchises and must provide dealers with notice and allow dealers the chance to fix any areas that are out of compliance with agreements before the dealers can be terminated. During the sale of a franchise, the dealer must also take into consideration whether the potential buyer is "an immediate family member, partial owner, and meets the standard requirements for approving the sale." He said manufacturers and dealers have a common interest in selling cars; however, manufacturers nationwide often have requirements that can be a burden on dealers. The goal is for both dealers and manufacturers to succeed and work well together in a balanced manner.

REPRESENTATIVE CLAMAN said the core of HB 136 is consumer interest and ensuring that consumers buying vehicles and bringing those vehicles to dealers for warranty repairs are satisfied with the service they receive. There is also an interest in maintaining a stable workforce of those who do the work on vehicles. He brought attention to a page included in the committee packet entitled "Driving Alaska's Economy," which shows the jobs in the automobile industry. He further noted that a detailed sectional summary is available in the committee packet.

[1:34:16 PM](#)

REPRESENTATIVE NEUMAN commented that he had sponsored a similar bill regarding all-terrain vehicles (ATVs), outboard motors, and warranties. He said he would like to hear the sectional [summary], at the least the major changes.

[1:35:48 PM](#)

REPRESENTATIVE CLAMAN addressed the major changes in the sectional summary. He directed attention to Sections 3 and 4, which read as follows in the Sectional Summary [original punctuation provided]:

Section 3

Amends AS 45.25.110(a): Manufacturers may not terminate an auto dealer unless they have complied with notice requirements and shown good cause for termination. Auto dealers have up to 120 days to correct areas out of compliance with the franchise agreement. The manufacturer may terminate a franchise if the dealer has systemically engaged in fraud.

#### Section 4

Adds new subsection to AS 45.25.110: Good cause to terminate a franchise does not include the failure of an auto dealer to meet sales or service goals due to factors beyond the control of the dealer including market conditions or insufficient supply of new motor vehicles.

REPRESENTATIVE CLAMAN said sometimes dealers have a quota to meet for a certain model vehicle, but they don't receive enough inventory to meet that quota. Conversely, sometimes those quotas are unrealistic in terms of conditions in Alaska. For example, all-wheel drive vehicles are popular [in Alaska], so if a quota demands the sale of more 2-wheel drive vehicles than all-wheel drive vehicles, then the dealer may have a difficult time selling the 2-wheel drive vehicles but could sell more all-wheel drive vehicles if he/she received them. He emphasized the importance of looking at local market conditions.

[1:37:49 PM](#)

CO-CHAIR WOOL remarked that the committee would discuss HB 136 in more detail when the dealers and manufacturers are able to take part in the discussion.

REPRESENTATIVE CLAMAN noted that an attorney for the dealers was available via teleconference.

[1:38:18 PM](#)

REPRESENTATIVE NEUMAN said he understands the priority of ensuring public testimony.

[1:38:28 PM](#)

REPRESENTATIVE CLAMAN next brought attention to Sections 6 and 7 of the sectional summary, which read as follows [original punctuation provided]:

Section 6

Amends AS 45.25.150(b) If a franchise termination occurs, auto dealers have an obligation to mitigate damages under a lease and mitigate the costs of facility relocations, alterations or remodels.

Section 7

Adds new subsection to AS 45.25.150: If a franchise termination occurs, manufacturers must pay the costs of relocation, alteration or remodeling of an auto dealers facilities if they were required by the manufacturer and were completed within three years of termination.

REPRESENTATIVE CLAMAN summarized that Section 8 would provide a detailed process for the transfer of dealerships. He explained that it is common that dealers are interested in either selling the dealership to family members or to people who have been involved in the business for a long time. The section would provide protection so that manufacturers cannot prohibit that. He said manufacturers nationally are trying to get a more diverse group of owners of dealerships, so Section 8 would also support that "to the extent that that doesn't conflict with existing ownership rights and moving on to folks that have that ownership share."

REPRESENTATIVE CLAMAN addressed Sections 9 and 10 in the Sectional Summary, which read as follows [original punctuation provided]:

Section 9

Amends AS 45.25.180(d) Expands the factors that the superior court must consider in a lawsuit addressing whether good cause exists to establish or relocate a dealership.

Section 10

Adds new subsection to AS 45.25.180 Establishes the burden of proof in a franchise lawsuit. A manufacturer has the burden of proof to establish good cause for establishing or relocating a dealership that the manufacturer has proposed. An auto dealer must establish good cause for any establishment or relocation that the auto dealer proposes.

REPRESENTATIVE CLAMAN said Section 12 provides more detail about rates that are paid for warranty work and how the warranty work

is provided. He said one issue identified by dealers is that the warranty rate agreed upon by manufacturers is sometimes lower than the retail rate charged in Alaska. That differential does not help dealers provide effective customer service. He said under Section 12, a framework would be created in statute for dealers to be able to establish an average retail rate and then have that rate apply to the warranty work. The result, he explained, is that dealers essentially would be charging the same for warranty and non-warranty work. Another aspect of Section 12 would be to ensure that manufacturers are responsible for returning a repaired vehicle to the remote location of its owner.

[1:42:18 PM](#)

CO-CHAIR WOOL observed that under HB 136, a non-dealer can be authorized to work on a vehicle so that the vehicle does not have to be moved from its remote location.

REPRESENTATIVE CLAMAN said there were two things he learned [in working on HB 136]. One was that a person living in a remote area might be better served by purchasing an older car no longer under warranty. The second thing is that manufacturers have strict requirements that certified mechanics do warranty repair work, because if a non-certified mechanic works on the vehicle, the warranty is voided. He said it is interesting that the certification to do the work is through the Society for Automotive Engineers. The manufacturers do not insist on a Ford dealer working on a Ford vehicle, for example, but rather that the person working on the vehicle is a certified mechanic. He expressed the need to broaden the area through the state where these certified mechanics can be found.

[1:44:35 PM](#)

REPRESENTATIVE KOPP commended the bill sponsor on the work that had been done since the last hearing in 2017. He asked if there is a consensus between the manufacturers and dealers in terms of Version R.

REPRESENTATIVE CLAMAN answered that is his understanding. He proffered that from a national level, these types of requests for change typically come from the dealers; the manufacturers do not endorse these types of bills but do communicate when they have no opposition to a bill.

REPRESENTATIVE KOPP surmised that HB 136 would make it easier for dealers to do business with customers in remote locations by having some guarantee of price reimbursement and perhaps expanding opportunities to partner with mechanics.

REPRESENTATIVE CLAMAN answered that is correct. Further, he said there would be a benefit in having certified mechanics in remote locations, because if a dealer sends a mechanic from Juneau to Sitka, the complication is in figuring out who pays for the travel time, because a mechanic is typically paid for mechanical work, not for travel time.

[1:46:35 PM](#)

REPRESENTATIVE STUTES said that coming from a rural area, she appreciates [HB 136]. She said in Kodiak, Alaska, "most people drove a Ford, because that was the only dealership we had there." She said she bought a Toyota and sat on the plane next to the West Coast representative from Toyota, to whom she remarked that she wished she had not bought a Toyota, because she could not get it worked on under warranty in Kodiak. Subsequently, Toyota "associated one of the repair shops in Kodiak" so that now there is a certified mechanic for Toyota as well as Ford in that community, where Representative Stutes said now everyone drives either a Ford or a Toyota.

[1:47:26 PM](#)

CO-CHAIR WOOL announced that HB 136 was held over.

[1:48:28 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 1:48 p.m.