

ALASKA STATE LEGISLATURE
SENATE STATE AFFAIRS STANDING COMMITTEE

March 13, 2018

3:30 p.m.

MEMBERS PRESENT

Senator Kevin Meyer, Chair
Senator David Wilson
Senator Cathy Giessel
Senator John Coghill
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 163

"An Act relating to commercial motor vehicles."

- MOVED CSSB 163 (STA) OUT OF COMMITTEE

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

WITNESS REGISTER

MIKE LESMANN, Legislative Liaison
Office of the Commissioner
Alaska Department of Transportation and Public Facilities
Juneau, Alaska
POSITION STATEMENT: Addressed SB 163.

JOHN BINDER, Deputy Commissioner
Alaska Department of Transportation and Public Facilities
Anchorage, Alaska
POSITION STATEMENT: Provided an overview of SB 163.

DAN SMITH, Director
Division of Measurement Standards and Commercial Vehicle
Enforcement
Alaska Department of Transportation and Public Facilities
Juneau, Alaska
POSITION STATEMENT: Answered questions regarding SB 163.

ARTHUR KEYES, Director
Division of Agriculture
Alaska Department of Natural Resources
Palmer, Alaska
POSITION STATEMENT: Testified in support of SB 163.

AVES THOMPSON, Executive Director
Alaska Trucking Association
Anchorage, Alaska
POSITION STATEMENT: Testified in support of SB 163.

JOHN R. DART, President
Dart-Am Farms, Manley Hot Springs Produce Company
Fairbanks, Alaska
POSITION STATEMENT: Testified in support of SB 163.

AMY SEITZ, Executive Director
Alaska Farm Bureau
Soldotna, Alaska
POSITION STATEMENT: Testified in support of SB 163.

ACTION NARRATIVE

[3:30:24 PM](#)

CHAIR KEVIN MEYER called the Senate State Affairs Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Giessel, Wilson, Coghill, and Chair Meyer.

SB 163-DEFINITION OF COMMERCIAL MOTOR VEHICLES

3:30:57 PM

CHAIR MEYER announced the consideration of Senate Bill 163 (SB 163).

3:31:36 PM

SENATOR EGAN joined the committee meeting.

3:31:50 PM

MIKE LESMANN, Legislative Liaison, Office of the Commissioner, Alaska Department of Transportation and Public Facilities, Juneau, Alaska, stated that Deputy Commissioner John Binder will address the committee regarding SB 163 as well as Director Dan Smith from the Division of Measurements Standards and Commercial Vehicle Enforcement.

3:32:49 PM

JOHN BINDER, Deputy Commissioner, Alaska Department of Transportation and Public Facilities, Anchorage, Alaska, provided an overview of SB 163 as follows:

Senate bill 163 proposes to bring Alaska's definition of a commercial motor vehicle into the twenty-first century. SB 163's proposed changes will benefit farmers who transport agricultural commodities or supplies in Alaska because existing restrictions on farm vehicles limit their movement to within 150 miles of the farmer's farm. SB 163 would allow farmers to operate anywhere in Alaska.

The Federal Highway Reauthorization Act of 2012, "Moving Ahead for Progress in the Twenty-First Century Act," commonly referred to as MAP-21, made the federal regulations of farmers less restrictive than are currently existing in Alaska statute.

SB 163 also proposes that the transportation of hazardous materials be amended to only apply to quantities of substances that require a placard regardless of the size of the vehicle.

Finally, the definition of "school bus" is updated to provide clarity for when school buses are exempt from commercial motor vehicle requirements.

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DAN SMITH, Director, Division of Measurement Standards and Commercial Vehicle Enforcement, Alaska Department of Transportation and Public Facilities, Juneau, Alaska, said SB 163 does three things: changes, clarifies and reconciles. He detailed a sectional analysis as follows:

The first section, which is AS 19.10.300, where the change we anticipated making was in AS 19.10.399, "definitions;" what we wanted to mirror with those changes in AS 19.10.300, which is "financial responsibility," when we are using the word "vehicular way or area," in definition in AS 28.90.990 and AS 19.10.399, those two terms are used together with one definition, so we just wanted to make that really clear. An "area" for our purposes, for commercial vehicle enforcement, would be if a tanker truck is at a Holiday Gas Station that's not on the highway, that's an "area" to us so you still fall under our jurisdiction and have to do things such as attend to your load of HAZMAT. So, we just wanted to make sure that was really clear.

Page 2, when we start to introduce this idea of a "covered farm vehicle," this is the MAP-21 language that the federal government came out with, "covered" does not mean "contained" or "confined," that just means those vehicles would then fall under this definition that they are "covered farm vehicles." Presently in AS 19.10.399, after 150 miles from a farmer's farm you then are regulated by DOT, meaning you are going to have all of the inspections, markings, that sort of thing for those commercial vehicles; this change would allow those vehicles to operator anywhere in the state.

We then move on to the HAZMAT portion where we want to be really clear. There are times when commercial vehicles are hauling HAZMAT and they would not require a placard, that's simply hauling a 55-gallon drum of gasoline for instance, that is not in a quantity that would require you to have placarding on your vehicle. Now, if you go place-to-place and pick up 55-gallon drums and your aggregate weight gets over 1000 pounds then yes, you are going to have to have a placarding on your vehicle. So, we just wanted to be really clear and this is really for emergency response vehicles,

those vehicles that can roll up on a crash and identify what that hazardous material might be.

The final change is coming up with a new definition for "school bus operations." Presently in AS 19.10.399 it says, "school buses are not commercial vehicles," and that is too broad, that is not compatible with the federal definition. If you have a school bus and you are using it commerce; for instance, picking up passengers from cruise ship and transporting them which is Senator Egan's situation he described to me, that is a motor carrier if they are using those school buses in the summer. So, our definition just needs to be tightened up. So, when you are using a school bus from home-to-school or school-to-home, they are exempt, they don't need to fall under DOT requirements, but if you are in commerce in furtherance of your business then yes, you are a motor carrier.

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SENATOR COGHILL noted that the new definition of "school bus" specifies carrying more than 10 passengers. He asked if the old definition was 15 passengers.

MR. SMITH replied the number of passengers remains at 10. He noted that the more-than-15-passenger number was in the definition of a commercial motor vehicle.

SENATOR WILSON asked him to identify examples of some of the farm vehicles that would be able to travel more from passage of the bill. He asked if the change includes semi-trucks, horse trailers, and extended trailers for transporting animals.

MR. SMITH specified that "legal vehicles" are as follows:

We are talking about a variety of vehicles, we are talking legal vehicles, vehicles of legal size. So, those in my world are vehicles that are 26,001 pounds or below, meaning a non-CDL holder vehicle; and then 26,001 and above meaning a combination vehicle, we are talking a tractor trailer. Yes, you could have a horse trailer and a truck-tractor pulling that, or this could simply be a straight truck which would be typical of flatbed.

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SENATOR WILSON asked if the increased hours on the road for farm vehicles will pose a safety concern for the department.

MR. SMITH answered that he does not know that safety would be measurably decreased by allowing the exemptions regarding hours of service and a driver's duty record status. He noted that any unsafe operation is still prohibited and enforced if there was an unsafe driver who was not using prudent judgement in the operation of their farm vehicle.

CHAIR MEYER asked how hard it is to get a placard and what it costs.

MR. SMITH replied he is not certain what the placards cost and will follow up; however, the HAZMAT placards are readily available and easy to access.

CHAIR MEYER asked if farm equipment is identified as trucks and flatbeds, not tractors.

MR. SMITH answered yes. He detailed that the division is talking about legal-sized and legal-weight vehicles. Changes are not being made for implements of husbandry.

CHAIR MEYER asked if "school bus operations" means, "Use of a school bus to transport students and school personnel to and from school." He inquired if school buses can be used to take kids to athletic events, etcetera.

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MR. SMITH replied that there is a very fine line when talking about school-sponsored activities. He said the intent for school bus operations is from home-to-school, school-to-school, or school-to-home. He explained that an outing to a museum as part of a student's curriculum would be exempt. He said where it starts to get gray is for example when students are being transported to a football game, a situation where the carrier would be regulated as a motor carrier because the carrier is carrying students in furtherance of their business that is not part of their contract to the government for the students. He explained that the motor carriers have the correct operating authority with USDOT numbers and properly qualified drivers to switch between exempted during the morning and after school; however, when doing the other activities, the motor carriers know that they fall under different levels of financial responsibility and driver qualifications.

CHAIR MEYER replied that Mr. Smith's explanation is confusing. He asked if the school districts know that some of the buses are being used for events that are a different status than during the day.

MR. SMITH disclosed that he has had conversations with the school districts to clarify that. He said the exemption process is clear to the motor carriers and is clearer now to early education.

CHAIR MEYER remarked that he did not see anybody in attendance from the school districts but would take Mr. Smith's word that he had spoken to the school districts.

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SENATOR EGAN noted that on page 4 the bill states that a bus would only carry "public" school kids. He asked if safety standards should be the same for all kids no matter what kind of school they go to. He inquired Mr. Smith if he has coordinated with the Alaska Department of Education and Early Development (DEED).

MR. SMITH answered yes.

SENATOR EGAN asked if DEED has seen the rules.

MR. SMITH answered yes.

SENATOR EGAN asked if DEED has seen the corrected bill.

MR. SMITH said he believes that the division and DEED are all on the same page, now. He addressed Senator Egan's question on bus safety standards for all children and emphasized that the division's intent is not to diminish safety standards for anybody transporting school students.

SENATOR EGAN reiterated that the bill infers "public" students.

MR. SMITH emphasized that the bill does not change the safety statutes.

CHAIR MEYER remarked that Senator Egan was referring to line 2 on page 4, "Used to transport public pre-elementary, elementary, or secondary school students to and from school."

SENATOR EGAN concurred with Chair Meyer.

CHAIR MEYER recalled that his children were once picked up in front of the capital and taken to the Juneau Christian School

SENATOR EGAN stated that he intends to offer an amendment that eliminates the word "public."

CHAIR MEYER agreed with Senator Egan to simply eliminate the word "public," then the statute would pertain to all school buses that transport kids.

MR. SMITH disclosed that he did not want to include "public" during the statutory cleanup process, the word was added somewhere else.

SENATOR EGAN reiterated that the word "public" is noted on page 4.

CHAIR MEYER replied that the "public" notation in the bill will be addressed in the amendment process.

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CHAIR MEYER opened public testimony.

[3:48:12 PM](#)

ARTHUR KEYES, Director, Division of Agriculture, Alaska Department of Natural Resources, Palmer, Alaska, testified in support of SB 163. He said changing the 150-mile rule provides clarity and certainty for Alaskan farmers. He opined that the 150-mile rule does not work in Alaska; for example, a farmer on the Kenai Peninsula would travel far more than 150 miles to do business in Palmer and the same holds true for Delta Junction and Fairbanks also doing business in Palmer.

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AVES THOMPSON, Executive Director, Alaska Trucking Association, Anchorage, Alaska, testified in support of SB 163. He asserted that any effort to clarify the statutes makes it easier for the trucking industry to understand and comply with the statutes and regulations governing the operation of its businesses. He said SB 163 reduces the burden on farmers and farm vehicles by removing the 150-mile restriction on farmers transporting their covered farm vehicles in the conduct of their business and allows them to operate statewide. He asserted that SB 163 does make clear that if operators choose to enter the for-hire world, they need to comply with commercial vehicle rules and regulations. He explained that SB 163 provides certainty for motor carriers of passengers by clearly identifying school bus

operations. He said school buses are not considered commercial motor vehicles while conducting school bus operations, they too will be required to comply with the commercial vehicle rules and regulations if they engage in for-hire transport other than school-bus operations. He summarized that SB 163 also provides clarification for carriers transporting hazardous materials in amounts that require a placard.

MR. THOMPSON addressed an earlier question regarding placards and noted that the Alaska Trucking Association's office has placards for sale for a multitude of different materials. He disclosed that the price is generally less than \$5.

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JOHN R. DART, President, Dart-Am Farms, Manley Hot Springs Produce Company, Fairbanks, Alaska, testified in support of SB 163 because the distances in Alaska are huge. He disclosed that one-way delivery from Dart-Am Farms to the south Anchorage farmer's market is 500 miles.

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AMY SEITZ, Executive Director, Alaska Farm Bureau, Soldotna, Alaska, testified in support of SB 163 because the state needs to update its statutes to be in line with the federal regulations. She said Alaska is a vast state with long distances between the farms and cities. She asserted that requiring farmers to operate their vehicles under commercial vehicle laws just to pick up supplies adds significant cost and burden.

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CHAIR MEYER closed public testimony.

He asked Mr. Smith to readdress the definition of "hazardous materials," specifically the regulation of weight.

MR. SMITH explained that the example that he gave for a HAZMAT Class 3 "flammable liquid" would entail an aggregate weight for 55-gallon drums that is called "other bulk packed packaging." He specified that when looking at HAZMAT in bulk, the division is talking about transport of more than 119 gallons, a point where a HAZMAT placard must be used. He noted that explosives fall into a category where the division looks at the potential if something were to go wrong versus weight.

CHAIR MEYER assumed that people making a living with HAZMAT materials are aware of the regulations. He inquired if taking some paint to the landfill would require a HAZMAT placard.

MR. SMITH specified that the HAZMAT placards apply to people who are in commerce. He concurred that people who deal with HAZMAT are well versed in its transportation.

[3:59:17 PM](#)

CHAIR MEYER asked if a painter with excess paint would be considered commercial.

MR. SMITH replied as follows:

Excellent question and it's a little bit like the farm exception, those are tools of your trade and at that point we are not grouping you in as if you are a motor carrier for hire transporting those types of materials.

CHAIR MEYER asked if the weight of a truck is noted on the title.

MR. SMITH explained that on the title the weight is classified by the Division of Motor Vehicles (DMV) as the "unladen weight;" however, on the vehicle's door or sill is the gross vehicle weight rating and gross combination weight rating, the way the division classifies weights.

CHAIR MEYER asked if the key is commercial versus personal.

MR. SMITH answered yes.

CHAIR MEYER explained that he asks only because some people are using big trucks for personal use.

MR. SMITH agreed.

CHAIR MEYER stated that Senator Egan would like to offer a conceptual amendment to eliminate the word "public" on page 4, line 2.

[4:01:26 PM](#)

SENATOR EGAN moved Conceptual Amendment 1.

[4:01:39 PM](#)

CHAIR MEYER announced that hearing no objection, Conceptual Amendment 1 is adopted.

He noted that there are no fiscal notes for SB 163.

CHAIR MEYER asked Mr. Smith if there is any federal money tied to the statute change.

MR. SMITH answered no. He pointed out that the Alaska Department of Transportation and Public Facilities does get monies from the Federal Motor Carrier Safety Administration to do enforcement on commercial vehicles.

SENATOR WILSON asked him to address the lack of a fiscal note and opined that a cost would be incurred in the regulation updating process.

MR. SMITH answered that updating regulations is part of the division's budget and the process would be done with existing resources.

[4:03:22 PM](#)

SENATOR COGHILL asked if there will be pushback from taking the word "public" out of the statute.

MR. SMITH replied as follows:

When I saw that change submitted, I asked what does "public" mean to you? Does that mean public money is going towards these entities that are doing this type of transport? They were just saying "no," these are public schools that are open to everybody. I tried to make the point to them that if there's a Christian school that's doing these same types of activities, they would then get the same exceptions.

SENATOR COGHILL explained that his intent was to make the topic very clear.

CHAIR MEYER asked if anything is jeopardized by removing the word "public" from the statute.

MR. SMITH replied that in his opinion nothing is being jeopardized.

CHAIR MEYER emphasized that everyone wants all kids to be safe.

MR. SMITH agreed and specified as follows:

I tried to speak to it a little bit before, but in my world, the enforcement world, part of the chapter is

parts necessary for safe operation, that does not change, we would still require those vehicles to be in safe working mechanical condition.

4:05:12 PM

SENATOR GIESSEL moved to report [CSSB 163(STA)], version 30-GS2597\A as amended from committee with individual recommendations and attached zero fiscal note.

4:05:30 PM

CHAIR MEYER announced that there being no objection, the motion carried.

4:06:09 PM

There being no further business to come before the committee, Chair Meyer adjourned the Senate State Affairs Standing Committee at 4:06 p.m.