

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

March 1, 2018

1:31 p.m.

MEMBERS PRESENT

Senator Bert Stedman, Chair
Senator Anna MacKinnon
Senator Click Bishop
Senator David Wilson
Senator Dennis Egan

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 163

"An Act relating to commercial motor vehicles."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 204 (JUD)

"An Act relating to overtaking and passing certain stationary vehicles."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 82 (STA) AM

"An Act relating to vehicle registration; relating to off-highway restricted areas; and relating to motor vehicle liability insurance."

- 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

BILL: HB 204

SHORT TITLE: OVERTAKING/PASSING ROAD WORK VEHICLES

SPONSOR(s): KAWASAKI

03/29/17 (H) READ THE FIRST TIME - REFERRALS
03/29/17 (H) TRA, JUD
04/06/17 (H) TRA AT 1:00 PM BARNES 124
04/06/17 (H) Moved HB 204 Out of Committee
04/06/17 (H) MINUTE(TRA)
04/07/17 (H) TRA RPT 2DP 5AM
04/07/17 (H) DP: KOPP, DRUMMOND
04/07/17 (H) AM: CLAMAN, SULLIVAN-LEONARD, NEUMAN,
WOOL, STUTES
04/13/17 (H) JUD AT 5:30 PM GRUENBERG 120
04/13/17 (H) Moved CSHB 204(JUD) Out of Committee
04/13/17 (H) MINUTE(JUD)
04/14/17 (H) JUD RPT CS(JUD) 4DP 3NR
04/14/17 (H) DP: KOPP, KREISS-TOMKINS, FANSLER,
CLAMAN
04/14/17 (H) NR: EASTMAN, LEDOUX, REINBOLD
04/17/17 (H) TRANSMITTED TO (S)
04/17/17 (H) VERSION: CSHB 204(JUD)
05/01/17 (S) READ THE FIRST TIME - REFERRALS
05/01/17 (S) TRA, JUD
03/01/18 (S) TRA AT 1:30 PM BUTROVICH 205

BILL: HB 82

SHORT TITLE: OFF HWY DRIVER'S LIC; REGISTRATION; INSUR.

SPONSOR(s): KREISS-TOMKINS

01/25/17 (H) READ THE FIRST TIME - REFERRALS
01/25/17 (H) STA, TRA
02/02/17 (H) STA AT 3:00 PM GRUENBERG 120
02/02/17 (H) Scheduled but Not Heard
02/23/17 (H) STA AT 3:00 PM GRUENBERG 120
02/23/17 (H) <Bill Hearing Canceled>
02/28/17 (H) STA AT 3:00 PM GRUENBERG 120
02/28/17 (H) Heard & Held
02/28/17 (H) MINUTE(STA)
03/09/17 (H) STA AT 3:00 PM GRUENBERG 120
03/09/17 (H) Heard & Held
03/09/17 (H) MINUTE(STA)
03/14/17 (H) STA AT 3:00 PM GRUENBERG 120
03/14/17 (H) Moved CSHB 82(STA) Out of Committee
03/14/17 (H) MINUTE(STA)

03/20/17 (H) STA RPT CS(STA) NT 3DP 2NR
03/20/17 (H) DP: KNOPP, TUCK, KREISS-TOMKINS
03/20/17 (H) NR: WOOL, LEDOUX
03/28/17 (H) TRA AT 1:00 PM BARNES 124
03/28/17 (H) Heard & Held
03/28/17 (H) MINUTE(TRA)
03/30/17 (H) TRA AT 1:00 PM BARNES 124
03/30/17 (H) Moved CSHB 82(STA) Out of Committee
03/30/17 (H) MINUTE(TRA)
03/31/17 (H) TRA RPT CS(STA) NT 5DP 1NR
03/31/17 (H) DP: CLAMAN, DRUMMOND, SULLIVAN-LEONARD,
KOPP, WOOL
03/31/17 (H) NR: NEUMAN
04/08/17 (H) NOT TAKEN UP 4/8 - ON 4/9 CALENDAR
04/10/17 (H) TRANSMITTED TO (S)
04/10/17 (H) VERSION: CSHB 82(STA) AM
04/11/17 (S) READ THE FIRST TIME - REFERRALS
04/11/17 (S) TRA, STA
03/01/18 (S) TRA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

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

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

WILLIAM JODWALIS, Staff
Representative Kawasaki
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Provided an overview of HB 204.

BOB ANDERSON, Central Region Chief of Maintenance and Operations
Alaska Department of Transportation and Public Facilities

Anchorage, Alaska

POSITION STATEMENT: Testified in support of HB 204.

DAN CARSON, representing self

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 204.

DUSTIN WITTE, Employee

Alaska Department of Transportation and Public Facilities

Fairbanks, Alaska

POSITION STATEMENT: Testified in support of HB 204.

DAN LOWDEN, Captain

Alaska State Troopers

Alaska Department of Public Safety

Anchorage, Alaska

POSITION STATEMENT: Did not provide a position on HB 204.

MATT WALKER, State Traffic and Safety Engineer

Alaska Department of Transportation and Public Facilities

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 204.

TRENTON ENGLISH, Business Representative

Public Employees Local 71

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 204.

DON ETHRIDGE, Lobbyist

Alaska AFL-CIO

Juneau, Alaska

POSITION STATEMENT: Testified in support of HB 204.

NOAH STAR, Staff

Representative Kreiss-Tomkins

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Provided an overview of HB 82 and answered questions.

MARLA THOMPSON, Director

Division of Motor Vehicles

Alaska Department of Administration

Anchorage, Alaska

POSITION STATEMENT: Answered questions regarding HB 82.

DAVID EPSTEIN, Region Traffic and Safety Engineer

Department of Transportation and Public Facilities
Juneau, Alaska
POSITION STATEMENT: Answered questions regarding HB 82.

GEORGINA DAVIS-GASTELUM, representing self
Kake, Alaska
POSITION STATEMENT: Testified in support of HB 82.

ACTION NARRATIVE

[1:31:36 PM](#)

CHAIR BERT STEDMAN called the Senate Transportation Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators MacKinnon, Bishop, and Chair Stedman.

SB 163-DEFINITION OF COMMERCIAL MOTOR VEHICLES

[1:31:59 PM](#)

CHAIR STEDMAN announced the consideration of SB 163.

[1:32:33 PM](#)

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

SB 163 proposes to bring Alaska's definitions of "commercial motor vehicle" into the 21st century. Senate Bill 163 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 farm. SB 163 will allow farmers to operate anywhere in Alaska. The Moving Ahead for Progress in the 21st Century Act (MAP-21), made the federal regulation of farmers less restrictive than our current existing language in Alaska statute. SB 163 also proposes 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, the definition of "school bus" is updated to provide clarity for when school buses are exempt from commercial motor vehicle requirements.

[1:32:38 PM](#)

SENATOR EGAN joined the committee meeting.

1:33:56 PM

DAN SMITH, Director, Division of Measurement Standards and Commercial Vehicle Enforcement, Alaska Department of Transportation and Public Facilities, Juneau, Alaska, provided a sectional overview of SB 163 as follows:

Section 1

AS 19.10.300, the area that we intended to change was in AS 19.10.399 which is "definitions." AS 19.10.300 is financial responsibility, but since we are using this wording later on in the bill, this was to mirror those changes that you will be seeing later.

Page 2, line 4

When we start talking about "covered farm vehicles" is really the meat of this bill. Presently, a farmer using a farm vehicle away from their farm after 150 miles from that farm they are then treated as though they are a motor carrier, meaning they would have to meet all of the requirements of a carrier, having like a DOST number markings on their vehicle, that sort of thing; this change would allow them to operate anywhere in the state.

Page 2, line 29

When we get to "placard," there are times when a commercial vehicle may be hauling a substance that is deemed a hazardous material but it's not in a quantity that requires a placard. If I owned an air taxi, for instance, I went and picked up a 55-gallon drum, that's not an amount of gas that would require a placard, so sometimes that situation arises, and we just wanted to be really clear when somebody is operating a vehicle as a commercial vehicle that then would be requiring a placard.

"School buses" and "school bus operations"

Presently, in AS 19.10.399 it says, "School buses are not commercial vehicles," so we wanted to make this change to clarify that school buses when they are used for transporting school children from home to school or school to home, that is school bus operations and they are exempt from the requirements. So, right now it is too broad, and it is not a compatible definition, we say "all school buses." If a school bus in the summer is picking up down here and taking passengers from a cruise ship out to the glacier,

that's a motor carrier of passengers at that time and they would be regulated as such, they already know that because that's how we've regulating them because most of them are in interstate commerce already and therefore are falling under a more restrictive rule.

[1:36:41 PM](#)

SENATOR MACKINNON asked what the current commercial requirements are for school bus drivers or for school buses.

MR. SMITH replied as follows:

For those exempt operations I can't answer that question because DOT&PF doesn't regulate them, I believe that's Early Education that sets those requirements for school buses when they are operating as a "school bus;" once they are outside of that definition, absolutely, I can tell you the requirements for a motor carrier of passengers.

SENATOR MACKINNON explained that her intent was to find out if there were any unintended consequences from the change in definition that will affect schools and the safety of the children that are being transported.

[1:37:38 PM](#)

SENATOR WILSON joined the committee meeting.

MR. SMITH replied that he did know of any unintended consequences. He explained that for the most part, a lot of the school bus transport is being conducted by government agencies who are already exempt. He said for those carriers that do school bus operations and then would have operations as a commercial carrier, they abide by stringent driver qualifications and vehicle requirements.

SENATOR BISHOP asked if the exemption for farmers to operate anywhere in the state without a CDL [commercial driver's license] was federal law.

MR. SMITH replied that is correct; it is the 49 CFR. [United State Code of Federal Regulation (CFR)]

SENATOR BISHOP disclosed that he had considered adding minors to the exemption, but a federal exemption was required. He asked if the bill gets around that requirement because 49 CFR allows the exemption for agriculture.

MR. SMITH answered yes.

[1:39:17 PM](#)

SENATOR MACKINNON addressed her concerns regarding farm vehicle safety as follows:

My only question is regarding safety and whether the roads will be safe with these types of vehicles on them without the same certification as a "commercial." I understand the economic disadvantage for the farmers, agriculture is a tough business to be in and moving your goods to market is difficult, but the vehicles and the safety of those vehicles is still of concern to all of us. Can you speak to the safety of farm vehicles on a road? I understand it is allowed on a national level, but Alaska faces some severe winter conditions and others that require us to look at everything in a unique way.

MR. SMITH replied that there will be no measurable effect on safety.

SENATOR BISHOP asked him to address safety regarding 18-wheel farm vehicles and inquired if the vehicle is exempt from DOT inspection.

MR. SMITH answered that a farm vehicle would meet the exception for a covered farm vehicle or existing farm vehicle exception. He added that an exemption would also apply to [49 CFR Part 391] for the medical and [49 CFR Part 383] for driver qualifications.

SENATOR BISHOP addressed air brakes and inquired if the tolerances are the same for farmers as they are for commercial carriers.

MR. SMITH answered yes.

[1:41:38 PM](#)

SENATOR STEDMAN opened public testimony.

[1:41:59 PM](#)

AVES THOMPSON, Executive Director, Alaska Trucking Association, Anchorage, Alaska, testified in support of SB 163. He specified that any effort to clarify the statutes makes it easier for the trucking industry to comply. He said SB 163 reduces the burden on farmers and farm vehicles by removing the 150-mile

restriction on farms transporting their own "covered farm vehicles" in the conduct of their business and allows them to operate statewide. He noted that if a choice is made to enter the "for hire world," compliance with the commercial vehicle rules and regulations will be required. He added that SB 163 provides certainty for motor carriers of passengers by clearly identifying school bus operations. He specified that school buses are not considered commercial motor vehicles while conducting "school bus operations." He added that school bus operators that choose to engage in "for hire" transport other than school bus operations would also have to comply with commercial vehicle rules and regulations. He detailed that SB 163 also provides clarification for carriers transporting hazardous materials in amounts that require a placard.

[1:44:07 PM](#)

CHAIR STEDMAN closed public testimony.

[1:44:22 PM](#)

CHAIR STEDMAN held SB 163 in committee.

HB 204-OVERTAKING/PASSING ROAD WORK VEHICLES

[1:44:33 PM](#)

CHAIR STEDMAN announced the consideration of HB 204.

[1:45:03 PM](#)

WILLIAM JODWALIS, Staff, Representative Kawasaki, Alaska State Legislature, Juneau, Alaska, disclosed that Dan Carson, former DOT&PF equipment operator in Fairbanks, brought the issue forward. He said he would speak briefly as to current statute what the bill does, what changes have been made from its original version and the penalties that come with any violation of what this bill puts forward as follows:

Under AS 28.35.185(a), drivers are required to vacate the nearest lane or slowdown when approaching certain stationary emergency and service vehicles which are flashing emergency lights on a highway or roadway. Such vehicles currently include: emergency, fire, law enforcement, animal control vehicles, and tow trucks in the act of picking up a vehicle. This bill adds, "Vehicle in the act of performing maintenance or road-service work," to the list of vehicles subject to the existing move-over law, allowing private contractor, municipal maintenance vehicles to fall under its

jurisdiction, including the Department of Transportation.

Under this bill if a driver approaches one of these vehicles, those performing maintenance or road service work which is displaying flashing emergency lights on a highway, with two or more lanes the driver shall vacate the lane closest to the vehicle or slow down to a reasonable speed if they cannot vacate the closest lane safely. On a road with fewer than two lanes, the driver shall slow down to a reasonable speed considering traffic, roadway, and weather conditions.

[1:47:33 PM](#)

MR. JODWALIS explained changes made from the original version of HB 204 during committee proceeding in House Transportation.

CHAIR STEDMAN asked Mr. Jodwalis to address the bill's current version.

MR. JODWALIS explained the penalties related to the bill as follows:

Under AS 28.35.185, failure to move over is a class A misdemeanor if personal injury results from a person's failure to vacate the lane or slow down. Failure to move over that does not result in personal injury is punishable by a \$150 fine and 2 points assessed against the driver's license. This statute has been effective since September 2005. We confirmed with municipal police departments that they enforce the same statute.

He summarized that HB 204 would help reduce the likelihood of work-zone-related accidents and tragedies and help make Alaska's roads a safer place to drive and work.

SENATOR WILSON asked how the bill differs from current laws regarding highway work zones.

MR. JODWALIS specified that the bill would apply to situations where someone is working on the side of the road.

[1:51:32 PM](#)

SENATOR WILSON asked what the requirement and process is from DOT&PF for an individual to work on potholes or guardrails.

MR. JODWALIS replied that DOT&PF can better answer Senator Wilson's question.

SENATOR BISHOP commented as follows:

Let me help you explain this. So, you have a construction project that has an improved traffic plan in it, let's say it's a bid awarded DOT&PF highway construction project. So, we have two issues here, this bill with a DOT&PF approved traffic plan, okay, that's over here. This bill is, as I interpret it, is trying to fix what's not a DOT&PF awarded construction plan to a private contractor. This bill is, like Senator Wilson said, there could be a maintenance issue here where DOT&PF is doing pothole repairs or doing an overlay where they will have two flaggers, they will have two lighted signs on either end of the job, but this is getting a little tighter yet where it might just be a one-truck pothole patch or a recovery effort of a tow vehicle, etc. This is covering outside of a controlled traffic plan outside of DOT&PF.

[1:53:37 PM](#)

CHAIR STEDMAN opened public testimony.

[1:53:53 PM](#)

BOB ANDERSON, Central Region Chief of Maintenance and Operations, Alaska Department of Transportation and Public Facilities (DOT&PF), Anchorage, Alaska, testified in support of HB 204 and commented as follows:

DOT&PF supports HB 204 as it has potential to provide additional safety to crews that are working along the road and highways every day. Our maintenance operators are the people you see every day working to provide safe routes for Alaskans, higher risk situations they face daily include out of control vehicles, road debris, and close proximity to traffic. The approval of this bill could potentially minimize these risks.

He provided national work-zone accident statistics from the US Department of Transportation as follows:

- Work-zone accidents:
 - 2015: 96,000;
 - 2014: 89,000;

- o 2013: 68,000.
- Work-zone accidents occur every 5.4 minutes with 0.7 percent resulting in a fatality.

MR. ANDERSON disclosed that during the previous month a maintenance worker in Colorado sustained fatal injuries while filling potholes. He added that Alaska experienced a loss in [2016] when [Robert Hammel] was struck [on the Seward Highway] while assisting Alaska State Troopers. He noted accidents in work zones that occurred without serious injuries as well.

He summarized that DOT&PF staff take pride in the work they do and want to make Alaska's road safe for all motorists.

[1:56:22 PM](#)

SENATOR WILSON asked Mr. Anderson to explain the safety-zone procedures for DOT&PF maintenance work.

MR. ANDERSON replied as follows:

I believe this bill is more pointed towards work that is done by one or two personnel at one time where we don't have to go through the process of setting up a complete traffic control plan. We do have policies that dictate that we use traffic control plans, but they are quite a bit different than what we typically see on a construction project for issues like a guardrail repair. We dictate that our crews park safely off the side of the road and out of harm's way and we have emergency flashing lights on, but there might not be the whole contention of warning signs leading up to the work zone.

SENATOR WILSON asked him to provide a copy of the procedures to the committee.

[1:58:03 PM](#)

SENATOR MACKINNON addressed her concern for increased liability as follows:

Could you tell me is there any increased liability as we expand our definition beyond the public sector? I see we have tow trucks listed in here so he have made an exception once now for tow trucks, but the bill as it was introduced was limited to state, so it seems like we are expanding it which would be a good thing in the sense that more people would be protected, but

will the general public be able to recognize those that are performing maintenance that might be in these corridors?

MR. ANDERSON answered that he does not see any added liability. He noted that the requirement for emergency flashing lights continues which adds additional protection.

SENATOR BISHOP suggested that DOT&PF consider doing public service announcements to inform the public if the bill became law.

[2:00:16 PM](#)

DAN CARSON, representing self, Fairbanks, Alaska, testified in support of HB 204. He disclosed that he used to work for DOT&PF in Fairbanks as an equipment operator and that was where he came up with the idea for the bill. He said his experience was that motorists were not slowing down or moving over in road maintenance areas. He opined that HB 204 would protect workers that are out on the road.

[2:02:17 PM](#)

DUSTIN WITTE, employee, Alaska Department of Transportation and Public Facilities, Fairbanks, Alaska, testified in support of HB 204. He said there were a lot of distracted drivers on the road and the bill will keep everybody that works on the road from tow truck drivers to DOT&PF personnel safe.

CHAIR STEDMAN said Captain Dan Lowden of the Alaska State Troopers would address the committee. He asked if the Alaska State Troopers supported the bill.

[2:03:31 PM](#)

DAN LOWDEN, Captain, Alaska State Troopers, Alaska Department of Public Safety (DPS), Anchorage, Alaska, replied that he was not certain if the department has taken a position on HB 204. He admitted that the bill was clearly intended to make people safe that are working along the roadway.

SENATOR MACKINNON asked if the requirement for flashing lights creates problems.

CAPTAIN LOWDEN answered as follows:

I don't know of a regulation that specifically states that there is a regulation about towing vehicles having flashing lights, but I suspect from what I've

seen almost all vehicles that are doing roadwork in manners that put them alongside the roadway, they already have lights. I think as it was discussed earlier, I don't believe that this bill was intended for construction sites that extend a distance along the highway, I think this was intended for the single kind of vehicle that they might be changing a street light, doing potholes, working on a guardrail, clearing brush, that sort of thing. I would suspect that they would all have lights and it certainly would seem to me that if they didn't it would in fact be hard for the public to understand what is going on for compliance to the statute.

2:06:20 PM

SENATOR MACKINNON noted that Anchorage has had casualties and commented as follows:

In Anchorage we have had casualties beyond performing maintenance or road service, but when contractors are out in the right-of-way, they are doing the same thing and they usually have stationary equipment along side of the road as well and those Alaskans are in harms way if you don't slow down or move over. We've had some near-death experiences with contractors having people in those right-of-ways and to me it seems like it would qualify based on the new language coming out of the Judiciary Committee that a vehicle performing maintenance, maintenance is reconstruction of a road or road service work, that's reconstruction that it would qualify.

So, I guess it's two-fold, I need to know whether this definition will extend to contractors in a roadway and then if not, why? Then, I also need to know in the summer if you don't have flashing lights then that would exempt those contractors or require additional expense on state contracts or municipal contracts to add the flashing lights and is that what we want to do?

2:08:21 PM

MATT WALKER, State Traffic and Safety Engineer, Alaska Department of Transportation and Public Facilities, Juneau, Alaska, testified in support of HB 204 and commented as follows:

To fulfill the department's mission to keep Alaska moving, our employees are frequently on or adjacent to roadways and moving traffic. We are inspecting bridges and roadways to identify repair that extend our infrastructure's life. We are designing our infrastructure for safer and more efficient movement by the public. We are assisting with emergency response. We are performing maintenance and operation activities like snow and ice removal, and repairing signs and pavement markings, and roads and bridges, and guardrails.

CHAIR STEDMAN asked Mr. Walker to address Senator MacKinnon's previous questions.

SENATOR MACKINNON restated her questions as follows:

We have construction crews that, I'll use the Muldoon bridge as an example where there was construction and barriers and cones, everything set up, and it seems to me that based on the language that's coming over from the other body the act of performing maintenance or road service work that private contractors would now be included in this new definition, that's the first question. Is that accurate, because before it was much narrower. I certainly supported the previous iteration of the bill where it was DOT&PF, that's who we were protecting, but I think it's a good conversation that we have contractors on the roadway that are placing their lives at risk as well as DOT&PF employees or other municipal folks.

[2:11:14 PM](#)

MR. WALKER replied as follows:

These contractors do work for the department, so I think the fact that they are on the road performing maintenance work they would be covered as they have their flashers up; they are still required to put up traffic control when they are doing work for the department according to the Alaska Traffic Manual, just as our maintenance personnel are required to do.

SENATOR MACKINNON asked him to touch base with the Department of Law and provide a definitive answer. She continued as follows:

Those contractors who are working in the roadway should be protected and we should educate, as Senator Bishop suggested, the general population to know that if somebody is stationary in the roadway operating on a road, they should move to the left, they should vacate the closest lane to provide additional protection to those working in the roadway.

My secondary concern is requiring the flashing lights. I'm not sure they are always there in the summer. Now, maybe I'm just not seeing them because it's light for some time during an Alaska summer, but if we could check on whether those lights are required currently on all projects or whether those lights stop flashing during daytime hours because that might negate them from being part of this if the flashers aren't going.

MR. WALKER answered that the DOT&PF Alaska Traffic Manual requires lights to be on during roadwork.

CHAIR STEDMAN asked if DOT&PF was in support of the HB 204.

MR. WALKER answered yes.

[2:13:56 PM](#)

TRENTON ENGLISH, Business Representative, Public Employees Local 71, Juneau, Alaska, testified in support of HB 204. He disclosed that the labor union represents many men and women throughout the state that spend a great deal of time working along the state's roadways. He asserted that the additions HB 204 makes to the Move Over Law will go along way to keeping workers safe.

[2:14:58 PM](#)

DON ETHRIDGE, Lobbyist, Alaska AFL-CIO, Juneau, Alaska, testified in support of HB 204. He addressed Senator McKinnon's question and noted that the bill is intended to cover all construction workers and DOT&PF maintenance personnel on the highways.

[2:15:45 PM](#)

At ease.

[2:16:15 PM](#)

CHAIR STEDMAN called the committee back to order.

MR. ETHRIDGE added that traffic supervisors are trained to let everyone know that "caution lighting" is required with signage.

[2:17:18 PM](#)

CHAIR STEDMAN closed public testimony.

[2:17:44 PM](#)

CHAIR STEDMAN held HB 204 in committee.

HB 82-OFF HWY DRIVER'S LIC; REGISTRATION; INSURANCE

[2:17:57 PM](#)

CHAIR STEDMAN announced the consideration of HB 82.

[2:18:15 PM](#)

NOAH STAR, Staff, Representative Kreiss-Tomkins, Alaska State Legislature, Juneau, Alaska, provided the following overview of HB 82:

HB 82 seeks to restore off-highway driver's license eligibility to the communities of Kake, Hoonah, Angoon, Seldovia, and Hyder. What is an off-highway driver's license? An off-highway license allows drivers to become legally licensed without taking a road test, exempting residents of small communities from traveling by ferry or plane to a far away DMV office. To obtain an off-highway driver's license an individual only has to complete a written test. As of last year, there were 1,120 off-highway driver's licenses in Alaska operating in 294 off-highway communities.

In 2012, constituents from Angoon notified Representative Kreiss-Tomkins that residents of Angoon, Kake, and Hoonah had been denied off-highway driver's licenses. Despite a multi-decade history of applying for and using off-highway driver's licenses, these residents were no longer eligible for off-highway licenses. Suddenly, Angoon, Kake, and Hoonah residents were faced with uncomfortable decisions. Residents had to choose either pay hundreds of dollars to fly to Juneau to take a road test using an unfamiliar vehicle or stop driving legally. In the supporting letters that accompany today's presentation as well as the testimony, you will read how off-highway driver's license ineligibility affected these constituents.

Why did Angoon, Kake, and Hoonah find themselves ineligible for the licenses that they had historically used? New regulation with inconsistent application. To be eligible in the status quo a community must not be "Connected to the land-connected state highway system with no access to a DMV office." Additionally, a community must have an average traffic count lower than 499 cars in order to be eligible for an off-highway driver's license, but these regulations are inconsistently applied; for example, Metlakatla and Sand Point have ferry access but are off-highway driver's license eligible.

HB 82 realigns off-highway driver's license eligibility with a common sense and historical understanding of which communities need off-highway driver's licenses. HB 82 is simple, the bill asks: one, is an area off the road system, and two, does the area not have a DMV? A "yes" to both of those questions means a community should qualify for an off-highway driver's license, that's what our bill does.

[2:21:17 PM](#)

MR. STAR referenced a sectional analysis for HB 82 as follows:

Section 1

Amends AS.28.10.011, the vehicle registration exemption statute. It exempts non-commercial vehicles driven in off-road eligible areas by drivers with valid driver's licenses, including off-road system restricted noncommercial driver's license, from registration. The requirements for off-highway commercial driver's licenses remain unchanged to comply with federal law.

Section 2

Amends section AS 28.10.011. Requires the department to publish a list of areas which don't have land-connected road access to a driver's test once a year. Drivers in communities on this list are eligible for off-highway licenses.

Section 3

Amends AS 28.15.201(d) to use the word "area" instead of "community" in the statute on drivers required to use in-vehicle ignition interlock devices and updates

the statutory citation that references off-highway areas.

Section 4

Amends AS 28.15.201(g) to use the word "area" instead of "community" in the statute on court limitations of driver's licenses and updates the statutory citation that references off-highway areas.

Section 5

Amends AS 28.22.011 to maintain that non-commercial vehicles driven in off-road areas (as dictated by updated list published by the department) are exempt from vehicle insurance.

Section 6

Amends AS 28.35.030(t). Uses the word "areas" instead of "communities" to include off-road system eligible places in existing statutes on ignition interlock devices and updates the statutory citation for off-highway areas.

Section 7

Amends 28.35.032(t). Uses the word "areas" instead of "communities" to include off-highway restricted eligible drivers in existing statutes on ignition interlock devices and updates the statutory citation for off-highway areas.

Section 8

Repeals 28.22.011(b), which required the DMV to annually publish a list of communities exempt from registration and insurance under the old eligibility guidelines, since the new list is required to be published under AS 28.10.011(b).

[2:23:27 PM](#)

SENATOR WILSON commented as follows:

We are constantly reminded by our Juneau senator upon how a lot of the folks don't pay their fair share of the roadways. DOT&PF does maintain some of the roads or builds some of the new highway miles within some of these communities and so the fee is not being paid is a bit of a concern, but more of a concern is why not have motor vehicle insurance be required for some of the drivers of off-road access; that just seems that

other motor vehicle lists for if they do get into an accident because they may not go through the same training or have a driver's road test so some may theorize that those folks may not be as safe as someone who would go through the DMV process, take the written test and the road test to be commercially licensed to not to have those individuals who drive motor vehicles which can be considered a deadly weapon for some to not be insured. I just don't understand the reason of why.

MR. STAR replied that the current insurance exemption is untouched by the bill and detailed as follows:

The policy question of whether off-highway communities should be exempt from registration or insurance is untouched by HB 82, that exemption is already on the books and was on the books for the period of time that I mentioned where the communities of Angoon, Kake, and Hoonah had off-highway eligibility. So, HB 82 only seeks to conform existing statute which affords an exemption to these communities to the new method that we suggest being used to determine if a community is off-highway.

[2:25:19 PM](#)

SENATOR WILSON asked if the Alaska Marine Highway System (AMHS) was included. He inquired if the off-road communities commute through AMHS to another off-road community can continue to be exempt.

MR. STAR answered as follows:

My understanding is that if someone with an off-highway driver's license were to drive onto a ferry, take the ferry to another off-highway community, they would be able to drive with their off-highway driver's license. If they were to take the ferry from an off-highway community to Juneau, they would need someone with a normal license to accompany in a vehicle similar to how a provisional license might work if you were driving in Anchorage or Juneau.

SENATOR MACKINNON commented as follows:

What's great about surveying the people of Alaska is understanding individual needs in other communities. I

appreciate that these are existing policies, but the interlock seems to be a new policy. Can you speak to me about the new policy on interlock, first?

MR. STAR answered as follows:

The interlock conforming changes in the bill is not a new policy, in fact, it is actually just a conforming change so the same list that was used to determine off-highway communities was used to exclude communities from being required from purchasing an interlock ignition device, the reason for that being based on our conversations with folks is that it can be prohibitively difficult to acquire an interlock ignition device in these same communities which is why the same list is used.

[2:27:09 PM](#)

SENATOR MACKINNON inquired as follows:

Is that because transmitting electronically information or do you know historically why that hasn't been done? Again, it's an opportunity to learn about a community. Why has Alaska chosen that in the past?

MR. STAR stated that he will get back to the committee with historical data. He reiterated that off-highway constituents have said interlock ignition devices are prohibitively difficult to install.

SENATOR MACKINNON asked if there is a distinction between a regular driver's license and an off-highway driver's license.

MR. STAR answered that the two licenses look different.

SENATOR MACKINNON shared her concerns as follows:

It concerns me that we are creating a different group of folks that don't have to have insurance and that could be unsafe in their community based on not having equitable distribution of regulations or laws, but I will withhold judgement until I hear more because I do know that individual communities struggle with different things. I lived on Dutch Harbor before there was a bridge so it's isolated, it's very small, about two miles wide, and so it would have been difficult

without a boat to get over to Unalaska to find groceries. So, I know that depending on where you live the challenges are different, so I will refrain judgement until I hear a little bit more.

2:30:02 PM

SENATOR BISHOP remarked that the change occurred when somebody interpreted AMHS as counting as access.

MR. STAR answered correct. He detailed that in 2014 a traffic-count component was also added. He opined that traffic count was problematic because the count was not always kept up in rural communities.

CHAIR STEDMAN asked Mr. Star to get back to the committee on the AMHS reference because the AMHS is considered a highway and why should it be excluded.

SENATOR MACKINNON concurred as follows:

I appreciate you acknowledging the Marine Highway is a highway because we have those arguments where I've been known to challenge the fee structure of the Marine Highway and so now the Marine Highway isn't a highway and that's inconsistent also. I appreciate you raising that issue because depending on where you live in Alaska these are different issues. If you live in Juneau or any other community and you benefit from the Marine Highway System, you fight for that and the subsequent dollars that the state invests on those communities on behalf to run that system and if you are on the highway system you are burdened from some perspective with insurance and interlock systems and other state regulation that now is being treated different because of the Marine Highway. So, I'm not going to get controversial about it, but I would concur that we are asking for a different treatment when you are connected to the Marine Highway System under this particular scenario.

CHAIR STEDMAN remarked that AMHS is a highway, a scenic byway.

2:32:51 PM

MARLA THOMPSON, Director, Division of Motor Vehicles (DMV), Alaska Department of Administration, Anchorage, Alaska, explained that off-highway licenses are marked as a restriction.

She added that the off-highway license has been redesigned to clearly show that the license is off-highway.

CHAIR STEDMAN noted that there was an earlier concern on an interpretation change dealing with some of the remote communities that are attached to AMHS. He asked if Ms. Thompson had any comments on the AMHS issue.

MS. THOMPSON replied as follows:

The only thing that I would comment on is that because the DOT&PF only does the traffic counts on a schedule that they've got, it's not always accurate and things can change. From the DMV's point of view, if it changes it becomes more confusing for the people who live there because one day, they might have an off-highway license and then the next day because now it's 498, the traffic, then we have to take that away from them and frankly that's an expense and it is very confusing for folks.

SENATOR WILSON asked Ms. Thompson to address his previous comment on "fees not paid" as well as where the normal DMV registration fees go for communities that are not off-road.

MR. THOMPSON replied that DMV is strictly responsible for collecting fees. She added that there would not be a registration fee from those communities any longer.

CHAIR STEDMAN asked David Epstein from DOT&PF if AMHS is considered a highway.

[2:35:56 PM](#)

DAVID EPSTEIN, South Coast Region Traffic and Safety Engineer, Alaska Department of Transportation and Public Facilities, Juneau, Alaska, replied that he has not done much with AMHS and noted that the department does not do traffic counts on the ships. He said the closest association he has with AMHS is signing and striping in the parking lots.

SENATOR MACKINNON commented as follows:

I believe we are provided AMHS counts on a regular basis, so I just wanted to make sure the record reflects that we might have a different analysis of that.

CHAIR STEDMAN said the Legislature receives an accurate count of the car-deck and ridership on AMHS from point-to-point.

[2:37:51 PM](#)

GEORGINA DAVIS-GASTELUM, representing self, Kake, Alaska, testified in support of HB 82. She said the bill addresses the financial and geographical difficulties that rural residents face when having to travel to take road tests at DMV offices. She requested including Kake, Angoon, and Hoonah as locations authorized for off-highway driver's licenses.

SENATOR EGAN emphasized that AMHS is on the federal aid to highway systems.

CHAIR STEDMAN concurred that AMHS is a highway. He emphasized that there was no confusion with the chairman of the Senate Transportation Committee that AHMS is a highway.

[2:41:07 PM](#)

CHAIR STEDMAN closed public testimony.

SENATOR WILSON commented as follows:

I guess that clarification if AMHS is a federal highway it thus would be illegal to drive on to that federal highway with the off-road license, so you would be stuck on your current location if you have an off-road vehicle. I just wanted to get that legal clarification.

CHAIR STEDMAN noted that the committee has asked the bill sponsor to comeback with a clarification on the issue that Senator Wilson addressed.

[2:42:07 PM](#)

CHAIR STEDMAN held HB 82 in committee.

[2:42:46 PM](#)

There being no further business to come before the committee, Chair Stedman adjourned the Senate Transportation Standing Committee meeting at 2:42 p.m.