

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 2, 2023

1:02 p.m.

MEMBERS PRESENT

Representative Kevin McCabe, Chair
Representative Tom McKay
Representative Craig Johnson
Representative Jesse Sumner
Representative Genevieve Mina

MEMBERS ABSENT

Representative Sarah Vance, Vice Chair
Representative Louise Stutes

COMMITTEE CALENDAR

HOUSE BILL NO. 81

"An Act relating to the transfer of a title on the death of the owner; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 81

SHORT TITLE: VEHICLES/BOATS: TRANSFER ON DEATH TITLE

SPONSOR(S): REPRESENTATIVE(S) RAUSCHER

02/22/23	(H)	READ THE FIRST TIME - REFERRALS
02/22/23	(H)	TRA, STA
03/02/23	(H)	TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE GEORGE RAUSCHER

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 81.

RYAN MCKEE, Staff

Representative George Rauscher

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Gave the sectional analysis of HB 81 on behalf of Representative Rauscher, prime sponsor.

JEFFERY SCHMITZ, Director
Division of Motor Vehicles
Department of Administration
Anchorage, Alaska

POSITION STATEMENT: Fielded questions relating to the Division of Motor Vehicles, during the hearing on HB 81.

ACTION NARRATIVE

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CHAIR KEVIN MCCABE called the House Transportation Standing Committee meeting to order at 1:02 p.m. Representatives Johnson, McKay, Mina, Sumner, and McCabe were present at the call to order.

HB 81-VEHICLES/BOATS: TRANSFER ON DEATH TITLE

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CHAIR MCCABE announced that the only order of business would be HOUSE BILL NO. 81, "An Act relating to the transfer of a title on the death of the owner; and providing for an effective date."

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REPRESENTATIVE GEORGE RAUSCHER, Alaska State Legislature, as prime sponsor, presented HB 81. He stated that the process of probate in Alaska can take anywhere from six months to several years and can cost family members and beneficiaries thousands of dollars and potentially tens of thousands of dollars in legal and filing fees. He said that while the legislature has already taken great strides to reduce the costs of probate, there is still much room for improvement. He explained that HB 81 continues, in spirit, with the Uniform Real Property Transfer on Death Act (URPTDA), which he noted had unanimously passed both the Alaska House and Senate in 2014. He further explained that URPTDA created the Transfer on Death (TOD) deed, which allows for nonprobate transfers of real property. He said TOD deeds allow Alaskans to select a beneficiary who will receive the property at their passing and removes that property from the process of probate. He recounted that in 2016, legislation similar to HB 81 was introduced but failed to pass that session. He stated that HB 81 is nearly identical but expands the concept

to apply both to vehicles and boats that are issued titles through the state. He stated that HB 81 continues the effort to reduce the costs of probate for Alaskans and creates a streamlined service through the Division of Motor Vehicles (DMV) through which the DMV can designate beneficiaries for both cars and boats through a form. The TOD titles will be available for all boats and vehicles for which the DMV provides titles, which he said also includes some mobile manufactured homes under AS 45.29.102(66). He noted that the program will be self-sustaining through fees. He commented that, at no cost to the state, HB 81 would allow Alaskans to pass down boats, vehicles, and some manufactured homes to beneficiaries with more ease, and would help simplify and streamline the process of probate following the death of a loved one.

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RYAN MCKEE, Staff, Representative George Rauscher, Alaska State Legislature, on behalf of Representative Rauscher, prime sponsor, gave the sectional analysis for HB 81, which read as follows [original punctuation provided, with some formatting changes]:

Section 1:

Adds a new section under AS 05.25 that allows owners of boats, for which the Department of Administration (DoA) issues titles, to obtain a transfer on death (TOD) title.

Section 2:

Amends AS 13.33.101(a) to add a transfer of a boat or vehicle by a TOD title to the existing list of acceptable nonprobate transferable property.

Section 3:

Creates a provision under AS 13.33 for a transfer on death (TOD) title for boats and vehicles. Creates and defines the mechanism through the Division of Motor Vehicles (DMV), by which individuals will obtain, revoke, or change their transfer on death title and defines the parameters of the transfer on death title.

(a)-(c) Obtaining a TOD Title

- Creates a provision under AS 13.33 for a transfer on death title for vehicles and boats for which DoA issues titles.

o This includes some manufactured homes for which the DMV issues titles under AS 45.29.102(66). These homes are without a permanent foundation and transportable in one or more sections.

- Requires that the transfer of title to the designated beneficiary occurs when the sole owner or last surviving joint owner of the vehicle dies.
- Requires that owners of the boats or vehicles file a form through the DMV and pay associated fees to apply for a TOD title.
- Limits the TOD titles to two beneficiaries.

(d) TOD titles effective without notice or consideration

- Provides that TOD titles will not require notice or acceptance by the designated beneficiary.
- Provides that TOD titles will not be subject to consideration, the process by which there is an exchange or "quid pro quo" required from the recipient of the assets.

o Language taken from TOD deed statute under AS 13.48.060.

(e) TOD titles are nontestamentary

- States that TOD titles are nontestamentary, meaning that the associated vehicles do not need to be provided for in the decedents will.

(f)-(g) Revocation or Change to TOD titles

- Provides that the owner may revoke or change the designated beneficiary on the TOD at any time without the beneficiary's consent.
- Explains the process by which owners may revoke or change a TOD title.

o The owner can either assign and deliver the certificate of title for the vehicle to another person, thereby revoking the TOD title, or;

o file with the DMV to reissue the title without a designated beneficiary or with a different designated beneficiary.

(h) Designated beneficiaries right to disclaim interest

- Allows designated beneficiaries to refuse the boat or vehicle designated to them in a TOD title.

o Language taken from TOD deed statute under AS 13.48.100.

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(i) TOD titles subject to decedent's creditors, contracts, etc.

- Subjects the TOD title to creditor's claims against the owner's estate, as well as to other interests, contracts, liens, encumbrances, assignments, and other interests.
- These interests remain attached to the boat or vehicle after it is transferred to the designated beneficiary.

(j-m) Enforcing liability upon TOD titles

- Imposes the same procedures for enforcing liability upon TOD titles that is applied to TOD deeds under AS 13.48.110 and AS 13.48.088.

- o Provides that the estate may enforce liability against boats or vehicles with TOD titles if the owner's estate does not cover an allowed claim.

- o States that if there are multiple vehicles and/or boats, and a liability exists in the deceased's estate, the liability will be apportioned to each asset in proportion to its net value.

- o Requires that a proceeding to enforce a liability must begin within 12 months of the owner's passing and can only begin once proper notification to beneficiaries has occurred.

- o Stipulates that TOD titles do not affect rights of ownership before the owner's death, and do not affect rights of the designated beneficiary or creditors of the owner(s).

- o TOD titles do not give legal or equitable preference to the designated beneficiary.

- o TOD titles do not affect designated beneficiaries' eligibility for state public assistance.

(n-p) Uniform standard of survivorship, requirements to receive TOD title

- Requires that the designated beneficiary survive the previous owner by 120 hours.
- Requires that the designated beneficiary submit proof of the owner's death and an application and associated fees to the DMV.
- If there are two beneficiaries listed on the TOD title, they become joint owners.

(q) TOD titles may not be changed by other instruments

- Provides that TOD titles may only be changed by the process outlined in section 3 and not by a will or any other instrument.

(r) Gives the DoA authority to develop regulations to implement the TOD titles, establish necessary forms and fees, etc.

(s) Definitions Section 4: Amends AS 13.48.110(c) to add a person acting on behalf of the surviving spouse of the decedent to the list of people who may demand to enforce liability against the decedents' property.

Section 5: Adds a new section to AS 28.10.275, relating to vehicle titles, to clearly state that owners of vehicles for which the DMV issues titles may obtain a TOD title.

Section 6: Gives the DoA authority to develop necessary regulations.

Section 7: Applies an immediate effective date to section 5 of the bill to allow the department to develop regulations.

Section 8: Applies an effective date of July 1, 2024 to the legislation except for sections 5 and 7.

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REPRESENTATIVE MINA questioned what the process currently is if someone passes away and they owned a boat. She asked how HB 81 would change the process in that scenario.

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JEFFERY SCHMITZ, Director, Division of Motor Vehicles, Department of Administration, responded that there are too many factors based on individual situations and how the titles look to provide an answer to the question. He shared that one of the most complicated functions the DMV carries out is transferring titles upon death.

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CHAIR MCCABE stated that since the last time HB 81 was under consideration, boat titles were going to be shifted from the Alaska Department of Fish & Game (ADF&G) to the DMV. He asked if the shift was complete.

MR. SCHMITZ answered that the DMV titles some boats, not all, contingent on the size of the vessel.

CHAIR MCCABE asked if there can be only one lien on a boat.

MR. SCHMITZ answered yes; the process is the exact same for a boat as it would be for a car.

CHAIR MCCABE asked if HB 81 applies to commercial and personal use boats, for example, a commercial fishing boat.

MR. SCHMITZ explained that the question pertains to ownership. It does not matter if the vessel is commercial or not, if it is titled in an individual's name, the bill outlines that such a title would apply to all types of vehicles.

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REPRESENTATIVE C. JOHNSON highlighted the comment that some boats are licensed under ADF&G. He asked if HB 81 covers ADF&G titled vessels and, if not, whether the committee should consider adding ADF&G vessels to the provisions under HB 81.

REPRESENTATIVE RAUSCHER said he could not answer that question today but could provide a follow-up answer to members in the future.

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CHAIR MCCABE opened public testimony on HB 81. After ascertaining there was no one who wished to testify, he closed public testimony.

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CHAIR MCCABE announced that HB 81 was held over.

[1:22:08 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 1:22 p.m.