

ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE

March 7, 2024

1:03 p.m.

MEMBERS PRESENT

Representative Kevin McCabe, Chair
Representative Sarah Vance, Vice Chair
Representative Tom McKay
Representative Craig Johnson
Representative Jesse Sumner
Representative Louise Stutes
Representative Genevieve Mina

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 376

"An Act relating to transportation network and delivery network companies."

- HEARD & HELD

SENATE SPECIAL CONCURRENT RESOLUTION NO. 8

Disapproving Executive Order No. 131.

- CONSIDERED

EXECUTIVE ORDER 131

- HEARD

HOUSE BILL NO. 332

"An Act relating to the sale of the Alaska Railroad; and providing for an effective date."

- BILL HEARING CANCELED

PREVIOUS COMMITTEE ACTION

BILL: HB 376

SHORT TITLE: DELIVERY NETWORK COMPANIES

SPONSOR(s): TRANSPORTATION

02/20/24 (H) READ THE FIRST TIME - REFERRALS
02/20/24 (H) TRA, L&C
03/07/24 (H) TRA AT 1:00 PM BARNES 124

BILL: SSCR 8

SHORT TITLE: DISAPPROVE EO 131

SPONSOR(s): RULES

02/12/24 (S) READ THE FIRST TIME - REFERRALS
02/12/24 (S) TRA
02/22/24 (S) TRA AT 1:30 PM BUTROVICH 205
02/22/24 (S) Moved SSCR 8 Out of Committee
02/22/24 (S) MINUTE(TRA)
02/23/24 (S) TRA RPT 1DP 2NR
02/23/24 (S) NR: KAUFMAN, MYERS
02/23/24 (S) DP: TOBIN
02/23/24 (S) TRANSMITTED TO (H)
02/23/24 (S) VERSION: SSCR 8
02/26/24 (H) READ THE FIRST TIME - REFERRALS
02/26/24 (H) TRA
03/04/24 (H) TRA WAIVED PUBLIC HEARING NOTICE, RULE
23(A) WITH EO 131
03/07/24 (H) TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

JULIE MORRIS, Staff
Representative Kevin McCabe
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Introduced HB 376 on behalf of
Representative McCabe, prime sponsor.

RYAN ANDERSON, Commissioner
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Introduced EO 131.

ANDY MILLS, Legislative Liaison
Office of the Commissioner
Department of Transportation & Public Facilities
Juneau, Alaska

POSITION STATEMENT: Gave the sectional analysis for EO 131.

MORGAN GRIFFIN, Assistant Attorney General
Labor and State Affairs Section

Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on EO 131.

ACTION NARRATIVE

[1:03:58 PM](#)

CHAIR KEVIN MCCABE called the House Transportation Standing Committee meeting to order at 1:03 p.m. Representatives Sumner, McKay, Vance, Stutes, Mina, and McCabe were present at the call to order. Representative C. Johnson arrived as the meeting was in progress.

HB 376-DELIVERY NETWORK COMPANIES

[1:04:54 PM](#)

CHAIR MCCABE announced that the first order of business would be HOUSE BILL NO. 376, "An Act relating to transportation network and delivery network companies."

[1:05:39 PM](#)

JULIE MORRIS, Staff, Representative Kevin McCabe, Alaska State Legislature, introduced HB 376 on behalf of Representative McCabe, prime sponsor. She paraphrased the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

I am proud to introduce House Bill 376, which aims to address critical aspects of labor regulations concerning transportation network companies (TNCs) and delivery network companies (DNCs) in the state of Alaska. This bill seeks to clarify the classification of workers within these industries, ensuring that they are treated fairly and equitably under the law.

Over the past decade, the rise of transportation and delivery network companies has transformed the way people and goods are transported and delivered. These companies provide valuable services that enhance mobility, convenience, and accessibility for individuals and businesses alike. However, as the gig economy has expanded, questions have arisen regarding

the classification of workers and their rights and protections under existing labor laws.

House Bill 376 addresses these concerns by refining the classification of workers within the TNC and DNC sectors. It ensures that individuals who provide prearranged rides or delivery services through digital networks are properly classified as independent contractors, provided they meet specific criteria outlined in the bill.

This bill will address policy inconsistencies and improve the working standards of delivery drivers in Alaska. This legislation aims to align the status of delivery drivers with that of rideshare drivers, recognizing them all as essential contributors to the digital marketplace. The current distinction between rideshare and delivery drivers in relation to workers' compensation does not reflect the fluid nature of their roles, where drivers often switch between passenger transportation and goods delivery. This creates needless uncertainty and potential inconsistency in the application of our laws, undermining the flexibility and supplemental income opportunities that platform workers rely on.

Furthermore, this bill seeks to ensure Alaska stays in line with developments in other states where marketplace platform workers across all platforms are treated uniformly. Such consistency is paramount in fostering fairness, understanding, and avoiding legal ambiguities in this fast-growing digital space. Similar to other states, Alaska should establish a policy environment that attributes equal regulatory treatment to all platform workers, regardless of their chosen platform. This will not only demonstrate Alaska's commitment to valuing all digital platform workers but will also encourage a fair and inclusive digital marketplace.

[1:08:41 PM](#)

MS. MORRIS gave the sectional analysis for HB 376 [included in the committee packet], which read as follows [original punctuation provided]:

Section 1: This section amends AS 23.30.230(a) by delineating individuals who are not covered by certain labor regulations. It specifies exemptions for various categories of workers, including part-time babysitters, cleaning persons, harvest help, sports officials, entertainers, commercial fishermen, taxicab drivers, participants in the Alaska temporary assistance program, professional hockey players or coaches, and qualified real estate licensees. Additionally, it introduces an exemption for a delivery network company courier who provides delivery services or is otherwise logged onto the digital network of a delivery network company under AS 28.23.080.

Section 2: This section amends AS 28.23.080(a) to establish that transportation network companies (TNCs) and delivery network companies (DNCs) are not employers of TNC drivers or DNC couriers under certain labor laws. It clarifies that TNC drivers and DNC couriers are independent contractors and not employees of the respective companies, provided that certain conditions are met, such as not imposing specific hours of work, allowing drivers to use multiple digital networks, not restricting drivers from engaging in other occupations, and entering into a written agreement declaring the independent contractor status.

Section 3: This section amends AS 28.23.180(1) to define "digital network" as any online-enabled application, software, website, or system used by transportation network companies or delivery network companies to facilitate prearrangement of rides or offers for delivery services.

Section 4: This section amends AS 28.23.180 by adding new definitions related to delivery network companies, including "company," "delivery network company," "delivery network company courier" or "courier," "delivery services," and "offer." These definitions clarify the roles and operations of delivery network companies and couriers within the digital network system.

[1:11:33 PM](#)

CHAIR MCCABE asserted that definitions would be needed for the various couriers.

[1:12:19 PM](#)

REPRESENTATIVE STUTES asked whether the main purpose of the bill was for definitions.

CHAIR MCCABE confirmed that for the most part it was, and he gave an example of a situation with a delivery driver.

CHAIR MCCABE announced that HB 376 was held over.

SSCR 8-DISAPPROVE EO 131
Executive Order 131

[1:13:21 PM](#)

CHAIR MCCABE announced that the next order of business would be SENATE SPECIAL CONCURRENT RESOLUTION NO. 8, Disapproving Executive Order No. 131. [The committee simultaneously heard testimony related to Executive Order 131.]

[1:13:56 PM](#)

RYAN ANDERSON, Commissioner, Department of Transportation & Public Facilities, introduced Executive Order (EO) 131. He gave examples of how the governor supported the Alaska Marine Highway System (AMHS) and he stressed the importance of the AMHS operations board. He stated that reliability and service must continue to improve in the ferry system, and he acknowledged that the Department of Transportation and Public Facilities (DOT&PF) had been behind in its planning and continued to make decisions without short- and long-term plans in place. He said the bill requires that all board members are appointed by the governor.

[1:17:07 PM](#)

ANDY MILLS, Legislative Liaison, Office of the Commissioner, Department of Transportation & Public Facilities, gave the sectional analysis for EO 131 [included in the committee packet] which read as follows [original punctuation provided]:

Section 1. The uncodified law of the State of Alaska is amended by adding a new section to read:

FINDINGS. As governor, I find that it is in the best interests of efficient administration to reorganize the membership of the Alaska Marine Highway Operations Board.

* **Sec. 2.** AS 19.65.120(a) is amended to read:

(a) The board is composed of the deputy commissioner of transportation and public facilities assigned to the Alaska marine highway system and the following eight public members, each of whom must be a resident of the state:

(1) one representative, who may be retired, of a recognized union that represents employees of the Alaska marine highway system, appointed by the governor;

(2) one representative of an Alaska Native organization or tribe who is from a community served by the Alaska marine highway system, appointed by the governor;

(3) six public members

[(A)] who collectively have experience in enterprise, architecture, business operations, financial management, risk management, logistics, supply chain management, engineering, project management and controls, marine operations, strategy, regulatory compliance, ship maintenance, construction, and repair, quality management, continuous improvement, sales, marketing, communications, customer interface, or experience management, [;

(B) TWO OF WHOM ARE] appointed by the governor [, TWO OF WHOM ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND WHO SERVE AT THE PLEASURE OF THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND TWO OF WHOM ARE APPOINTED BY THE PRESIDENT OF THE SENATE AND WHO SERVE AT THE PLEASURE OF THE PRESIDENT OF THE SENATE].

* **Sec. 3.** AS 19.65.120(c) is amended to read:

(c) The members of the board, except for the deputy commissioner of transportation and public facilities, shall serve staggered six-year terms. If a vacancy arises on the board, the governor [, THE PRESIDENT OF THE SENATE, OR THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AS APPLICABLE,] shall, within 30 days after the vacancy arises, appoint a person to serve the balance of the unexpired term. A person appointed to fill the balance of an unexpired term shall serve on the board from the date of appointment until the expiration of the term.

*** Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION. The terms of the current members of the Alaska Marine Highway Operations Board terminate on the effective date of this Order. The governor may appoint to the Alaska Marine Highway Operations Board a person who served on the board as it existed before the effective date of this Order and who meets the qualifications of AS 19.65.120(a), as amended by sec. 2 of this order. The terms of persons initially appointed to the Alaska Marine Highway Operations Board under AS 19.65.120(a), as amended by sec. 2 of this Order, must be set as provided in AS 19.65.120(c) so as to establish the staggering of terms.

*** Sec. 5.** This Order takes effect July 1, 2024.

[1:21:49 PM](#)

REPRESENTATIVE VANCE, noting the various differences in boards and commissions that give recommendations to departments, asked whether some carry a fiscal responsibility of recommendations more so than others.

MR. MILLS agreed and stated that DOT&PF has looked at the amount of staff hours put in to generating activities for the board, and many of the statutory requirements of HB 63 come with a significant effort needed for AMHS to have a long- and short-term plan. He noted the integrated and coordinated roles of AMHS and DOT&PF.

[1:24:07 PM](#)

REPRESENTATIVE VANCE pointed out that she was a part of crafting the bill, and one of the reasons it was formed was due to the fiscal responsibility and the amount of money needed to maintain the ferry system. An area of reflection was the two ferries that were rebuilt but did not fit the docks and costed "millions more." She explained that she felt if there was something in place to anticipate changes that the department might miss, then those costs could be avoided in the future. She asked Mr. Mills whether he saw a burden of responsibility that the other commissions and boards were dealing with on the same level as AMHS.

MR. MILLS replied that that highlighted an important question, and one of the areas he would want more from the board would be that there is a section in HB 63 that spoke to recommendations

and business to enhance revenue and reduce costs; however, he stated those were not areas the department had largely seen a focus on, but he looked forward to having conversations on advice and recommendations for cost efficiency or revenue generation for AMHS. He further related the need to be creative and to think about different ways that the ferry system can provide the service the public expects but in ways not done before.

[1:28:40 PM](#)

REPRESENTATIVE STUTES offered her understanding that the enactment was expected to be a collaborative effort between the department and board to work in unison to look to the future and make AMHS more sustainable and cost-effective with an understanding that it would always have to be subsidized. She expressed her confusion as to why EO 131 even exists, and that it is not good timing due to AMHS working collaboratively for the good of the state and for the good of the ferry system as a whole in making it more efficient and effective.

[1:31:36 PM](#)

MORGAN GRIFFIN, Assistant Attorney General, Labor and State Affairs Section, Department of Law, joined the discussion and stated her intention was to provide the committee with the Department of Law's (DOL's) understanding of the Constitution of the State of Alaska. She mentioned "a bit of a dispute" as to whether it was a violation of the constitution to allow another branch of government to appoint members to an executive branch.

[1:35:19 PM](#)

MS. GRIFFIN explained separation of powers as it pertains to the constitution and provided an explanation of the three governmental branches being legislative, executive, and judicial. She gave examples of how a violation might occur as a result of attempting to carry out a function of one branch from another.

[1:38:19 PM](#)

CHAIR MCCABE remarked that when the board was constructed, it was envisioned to be more advisory in nature.

[1:39:23 PM](#)

MS. GRIFFIN stated that she brought up the advisory nature because it is not an aspect of the legal analysis; the question was whether it really violated the separation of powers. She added examples of legal authority and following guidance that is set in statute.

[1:42:15 PM](#)

CHAIR MCCABE interjected that "we are in the weeds" in terms of what the body really needed, and he expressed appreciation for Ms. Griffin's analysis.

MS. GRIFFIN provided a scenario of the power to appoint and the power to remove in relation to the governor following the law and how it could raise constitutional concerns.

[1:44:04 PM](#)

REPRESENTATIVE VANCE noted that the same governor signed the bill thus agreeing to the creation of the board as written in statute. She questioned why, if there were a separation of powers issue, it had not been brought up when the bill was originally before the governor.

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MR. MILLS conceptualized that part of the legal argument is that "this is like a business" where employees have no say over conduct, performance, or anything else. In relation to the governor signing the bill, he opined that AMHS needed collaborative partnerships to move forward. Knowing there is an issue and DOT&PF has no say over it has presented an issue that the EO 131 seeks to solve, he said.

[1:48:52 PM](#)

REPRESENTATIVE STUTES observed that that legislation went through DOL before it was enacted into law. She said she was alarmed to hear there was no control over board members. She opined that it is beneficial to have a board comprised of individuals who have different ideas and can collaborate rather than one in which every member thinks the same. She indicated that Legislative Legal Services may offer the opposite view that this is not an infringement on the different parts of the state's government. She expressed her concern as to what has motivated EO 131 and opined that the board has been doing well.

1:51:10 PM

CHAIR MCCABE announced that the committee has held a hearing on SSCR 8 as required by Uniform Rule 49 and the resolution will move to joint session when scheduled for such a session.

1:52:07 PM

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 1:52 p.m.