

**ALASKA STATE LEGISLATURE
HOUSE TRANSPORTATION STANDING COMMITTEE**

March 12, 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 Genevieve Mina

MEMBERS ABSENT

Representative Louise Stutes

COMMITTEE CALENDAR

HOUSE BILL NO. 386

"An Act relating to the obstruction of airports and runways; relating to the obstruction of highways; establishing the crime of obstruction of free passage in public places; relating to the obstruction of public places; relating to the crime of trespassing; relating to the obstruction of navigable waters; and providing for an effective date."

- HEARD & HELD

Presentation: Financing Infrastructure in Alaska by Department of Revenue

- REMOVED FROM AGENDA

PREVIOUS COMMITTEE ACTION

BILL: HB 386

SHORT TITLE: OBSTRUCTION OF PUBLIC PLACES; TRESPASSING

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/21/24	(H)	READ THE FIRST TIME - REFERRALS
02/21/24	(H)	TRA, JUD
03/12/24	(H)	TRA AT 1:00 PM BARNES 124

WITNESS REGISTER

TREG TAYLOR, Attorney General
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Introduced HB 386 on behalf of the bill sponsor, House Rules by request of the governor.

PARKER PATTERSON, Senior Assistant Attorney General
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Gave the sectional analysis for HB 286 on behalf of the bill sponsor, House Rules by request of the governor.

LIEUTENANT ROBERT FRENCH
Division of Alaska State Troopers
Department of Public Safety
Wasilla, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 386.

ACTION NARRATIVE

[1:03:26 PM](#)

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

HB 386-OBSTRUCTION OF PUBLIC PLACES; TRESPASSING

[1:04:11 PM](#)

CHAIR MCCABE announced that the only order of business would be HOUSE BILL NO. 386, "An Act relating to the obstruction of airports and runways; relating to the obstruction of highways; establishing the crime of obstruction of free passage in public places; relating to the obstruction of public places; relating to the crime of trespassing; relating to the obstruction of navigable waters; and providing for an effective date."

[1:04:43 PM](#)

TREG TAYLOR, Attorney General, Department of Law, introduced HB 386 on behalf of the bill sponsor, House Rules by request of the governor. He provided an overview of the bill and stated that

it is an attempt to balance constitutional rights for those who have a right to "move about the state freely" and access public places, and those who have a right to peacefully assemble or protest. He began a PowerPoint, titled "Obstruction of Access to Public Places," [hard copy included in the committee packet] on slide 3, titled "Freedom of Movement," which read as follows [original punctuation provided]:

- Alaskans' right to freely move within the state is violated when their access to public places and facilities are unlawfully obstructed
- Unlawful obstruction presents a threat to public safety - emergency vehicles are unable to respond when a crucial roadway is obstructed
- Unlawful obstruction poses a threat to Alaska's economy - businesses cannot operate normally; Alaskans may be unable to get to work
- HB 386 imposes additional criminal penalties for obstruction of public places and creates a civil cause of action for a private citizen whose access is unlawfully obstructed
- Penalties imposed by the bill discourage and deter unlawful obstruction of public places

MR. TAYLOR drew attention to slide 4, titled "Freedom of Assembly," and noted the first point needed to be corrected to read "AS 28.34.140." The slide read as follows [original punctuation provided]:

- Conduct that includes blocking access to public places and blocking traffic is already codified as a criminal act under AS 28.35.140
- Freedom of expression is already subject to time, place, and manner restrictions to prevent interference with the rights of others
- Proposed bill targets the conduct of blocking access to public places - not Alaskans' right to peaceably and lawfully assemble
- Provides Alaskans an avenue to remedy against unlawful obstruction
- Helps prevent Alaskans from engaging in self help and keeps these situations from dangerous escalations

[1:07:29 PM](#)

MR. TAYLOR proceeded to slide 5, titled "Around the U.S," which featured pictures of protestors blocking traffic on the East Coast. He moved to slide 6, which featured the highways Seward, Dalton, Glenn, and Highway 2 in Alaska. He explained that in other places, there are multiple ways to get from "point A to point B" but in Alaska that is limited, oftentimes having only one road available. Possible obstructions associated with each highway were expounded on by Mr. Taylor.

[1:09:45 PM](#)

PARKER PATTERSON, Senior Assistant Attorney General, Department of Law, gave the sectional analysis for HB 386 on behalf of the bill sponsor, House Rules by request of the governor. He went through slides 7 through 10, titled "Sectional." The sectional analysis [included in the committee packet] read as follows [original punctuation provided]:

Section 1. This section amends obstruction of airports to prohibit a person from obstructing a runway in ways other than placing an object on the runway.

Section 2. This section adds a new penalty provision to the crime of obstruction of airports and runways. The amendment makes it a class C felony for a person to place an object on the runway and a class A misdemeanor for a person to otherwise obstruct a runway, dig a hole on a runway, or do any kind of excavation on a runway.

Section 3. This section makes a conforming change to account for the amendments in section 2.

Section 4. This section creates a new provision that establishes strict liability for violation of any of the criminal statutes created or amended in the bill. There is no requirement that a defendant in a civil case be convicted of a crime under this new section; however, the elements of the criminal offense would need to be established by a preponderance of the evidence in a civil action to establish liability.

Subsection (a) extends standing to bring a lawsuit to any person whose passage is obstructed, regardless of whether the person was physically injured. This subsection provides for a schedule of statutory damages in addition to compensatory and punitive

damages available to a successful plaintiff. This subsection also provides for "strict liability" so that a plaintiff should not be required to prove that the defendant negligently, recklessly, or intentionally damaged the plaintiff.

Subsection (b) extends liability beyond specific individuals who physically obstruct access to include any person who instigated, planned, encouraged, or conspired with the obstructor or obstructors. Liability for collaborators under this subsection is "joint and several" and does not divide the responsibility for paying damages between the defendants. Any one defendant is responsible for the full measure of damages awarded to a plaintiff and the defendant is responsible for seeking reimbursement from the other tortfeasors. Joint and HB 386 Obstruction of Public Places; Trespassing February 28, 2024 Sectional Analysis Page 2 of 3 several liability under this subsection includes corporations and other legal entities as well as natural persons.

Subsections (c) and (d) explicitly permit a plaintiff to obtain a temporary or permanent restraining order to stop ongoing obstruction and to be awarded costs and fees if successful.

Subsection (e) is a "long-arm" provision that extends the court's jurisdiction to persons outside of the state who plan and encourage obstruction within the state.

Subsection (f) defines "nominal damages," which are awarded to a plaintiff who proves that their passage was obstructed but suffered no injury to person or property.

Section 5. This section amends the crime of criminal trespass in the first degree (entering or remaining unlawfully upon land with intent to commit a crime or in a dwelling) to be a class C felony if the person commits criminal trespass in the first degree and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response.

Section 6. This section amends the crime of criminal trespass in the second degree (entering or remaining

unlawfully upon premises or in a vehicle) to be a class A misdemeanor if the person commits criminal trespass in the second degree and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response.

Section 7. This section makes a conforming change to account for the changes in section 8 that make obstruction of highways a crime rather than a violation.

Section 8. This section makes it a class C felony for a person to obstruct a highway, by dropping a substance on the highway or otherwise, that creates a substantial risk of physical injury to another person or interferes with an emergency response. Other types of obstruction would be a class A misdemeanor.

Section 9. This section creates the new crime of obstruction of free passage in public places. A person commits the crime of obstruction of free passage in public places by knowingly rendering a public place impassable or passable only with unreasonable convenience or hazard. Obstruction of free passage in public places is a class A misdemeanor if the obstruction creates a substantial risk of physical injury to another person, substantially interferes with a person's ability to access public places that render governmental services, or interferes with an emergency response. This statute does not apply to permitted conduct by the state or a municipal government or conduct that is otherwise authorized by law or by the person in charge of the premises. HB 386 Obstruction of Public Places; Trespassing February 28, 2024 Sectional Analysis Page 3 of 3

Section 10. This section amends the crime of obstruction to navigable water to be a class A misdemeanor if the person obstructs a navigable waterway and the conduct creates a substantial risk of physical injury to a person or interferes with an emergency response. Other obstructions to navigable water are a class B misdemeanor.

Section 11. This section provides prospective application of the criminal offenses amended in the bill.

Section 12. This section establishes the effective date as July 1, 2024.

[1:13:00 PM](#)

MR. TAYLOR concluded the presentation on slide 11, titled "Summary," which read as follows [original punctuation provided]:

The proposed bill is both content and viewpoint neutral. It aims to:

- Allow Alaskans to seek remedy when their right to access public places is violated
- Deter and discourage unlawful conduct through stronger criminal penalties
- Uphold Alaskans' constitutional right to assembly and demonstration

[1:15:33 PM](#)

CHAIR MCCABE invited questions from committee members.

[1:15:50 PM](#)

REPRESENTATIVE MINA asked Mr. Taylor to elaborate on the definition of obstruction.

MR. TAYLOR replied that obstruction is defined as knowingly rendering a highway impassible and creating an unreasonable inconvenience or hazard. He added that often, it is a judgement call by the responding officer and prosecuting attorney.

[1:17:20 PM](#)

REPRESENTATIVE VANCE asked Mr. Taylor if he could offer a clear definition of "unreasonable inconvenience." She further stated that on the Kenai Peninsula there are slow moving vehicles which can be deemed "unreasonable."

MR. TAYLOR reiterated it is a judgement call by responding officers and further explained that it falls to "knowingly" where the person is aware of the circumstances.

REPRESENTATIVE VANCE offered an example of a truck parked at the owner's favorite fishing spot and asked whether it would fall under the crime of obstruction to public places.

MR. TAYLOR clarified the difference of an area with a "no parking" sign versus if the individual parked there intentionally to keep people from fishing in the favorite spot.

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CHAIR MCCABE referred to guides who hunt and may build tents in various places, including public use airports. He expressed his concern for a clearer understanding of "public use."

MR. TAYLOR confirmed that the obstruction of airports is already against the law. He added that if it were on public land, it would likely fall under the definition of public use.

[1:23:29 PM](#)

REPRESENTATIVE C. JOHNSON expressed curiosity regarding emergency response vehicles being blocked.

MR. TAYLOR said the two elements are: knowingly creates a risk of physical injury or interferes. He added it can quickly happen if someone blocks a roadway and prevents an ambulance from getting through and therefore delays it.

[1:24:48 PM](#)

REPRESENTATIVE SUMNER asked whether there was a durational period a vehicle causes blockage, or the instant it blocks it has committed the crime.

MR. TAYLOR explained it is up to the discretion of the responding officer and, if applicable, the prosecutor. He reiterated that if one knowingly created a risk and caused blockage it would be more than momentary blockage. Obstruction could be charged if it interfered with an emergency vehicle, he reiterated.

REPRESENTATIVE SUMNER alluded to obstructions by the railroad.

MR. TAYLOR responded if the railroad did it intentionally, for example, to keep people from accessing a reservoir on the other side of the road, there could potentially be a charge of obstruction; however, it would not be a person but a company or corporation charged.

[1:26:44 PM](#)

REPRESENTATIVE MINA offered her understanding that the bill seeks to balance public safety and transportation with First Amendment rights but does not apply to a permit for a rally or protest. She questioned how Mr. Taylor saw the role of a permit.

MR. TAYLOR replied that it is largely a decision from municipalities.

REPRESENTATIVE MINA requested Mr. Taylor to speak to situations where permits are denied. She further inquired Mr. Taylor to speak to First Amendment conduct that does not require a permit.

MR. TAYLOR stated he could not speak to the denial of permits and reiterated that it is a municipal level policy call. In response to a follow-up question, he said that an example of permitted activity would be protesters making their policy views clear right outside the Alaska State Capitol [building].

[1:29:51 PM](#)

CHAIR MCCABE offered a scenario where traffic is obstructed and an hour after the perpetrators are gone, traffic is still "snarled." He questioned the repercussion if the obstruction resulted in an ambulance not getting through and someone dying because of the snarl.

MR. TAYLOR replied he thought that would qualify if it were knowingly caused, and the penalty could be a Class E felony in such a case.

CHAIR MCCABE reflected on the topic of self-help and asked for further definition.

MR. TAYLOR replied that the self-help the proposed legislation is trying to prevent is individuals' rising frustrations, and he gave examples of scenarios where tensions can rise. The idea behind the bill, he said, is to prevent that from happening. He explained that if a trooper pulled up upon a situation, the option would be to write a ticket; however, with the bill, the officer would have an arrestable offense and could remove the violator from the site.

CHAIR MCCABE noted that he had been involved in strikes and having to get a permit from the city, and each time the permit had restrictions, such as to set time limits, and although

citizens are free to exercise their First Amendment rights, they are not free from some of the consequences of doing so. He opined that in terms of self-help, it is to prevent the consequences to the people protesting or to the public.

MR. TAYLOR confirmed that was exactly right and acknowledged how easy it is for things to escalate.

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REPRESENTATIVE VANCE said she appreciated the intent of the bill, but reflected on Section 9, and spoke of a situation when an emergency vehicle was not able to gain access to the beach in Kasilof due to random parking along the roads. She asked how the law would apply and whether ill intent would have to be proven.

MR. TAYLOR clarified what must be proven is that the person knowingly caused the situation that created a substantial risk of injury or interferes with the emergency response.

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REPRESENTATIVE MINA asked Mr. Taylor to speak to how often the current fines for obstructing highways are enforced.

MR. TAYLOR said he did not have the information in front of him, but he could research the numbers.

REPRESENTATIVE MINA asked how often obstructions on highways happen.

MR. TAYLOR said he was aware of occurrences on the North Slope and, in other areas, people blocking remote roads. He added what is being seen in the Lower 48 is what he wished to be preventable in Alaska.

REPRESENTATIVE MINA sought clarity that the intent of the bill would be to deter potential escalations of violence that could happen at an event.

MR. TAYLOR confirmed that is part of the reasoning behind the bill and for Alaskans to be prevented from taking matters into their own hands.

[1:42:50 PM](#)

CHAIR MCCABE recognized law enforcement online to answer any further questions from committee members.

[1:43:22 PM](#)

REPRESENTATIVE MINA asked Lieutenant French how often there are obstructions on state roads.

[1:43:56 PM](#)

LIEUTENANT ROBERT FRENCH, Division of Alaska State Troopers, Department of Public Safety (DPS), replied that he was not aware of exact numbers in those cases, but he could find the information.

CHAIR MCCABE suggested Lieutenant French email the information to the committee and provided the address. He directed a comment to Mr. Taylor in reference to Alaskans going fishing and not thinking about obstructing traffic and clarified that the bill is designed for people who knowingly have an objective to block or stop traffic to make a point.

MR. TAYLOR replied that that was exactly right.

[1:45:07 PM](#)

CHAIR MCCABE announced that HB 386 was held over.

[1:45:46 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Transportation Standing Committee meeting was adjourned at 1:46 p.m.