

ALASKA STATE LEGISLATURE
SENATE TRANSPORTATION STANDING COMMITTEE

May 2, 2023

1:38 p.m.

MEMBERS PRESENT

Senator James Kaufman, Chair

Senator Löki Tobin

Senator Robert Myers

MEMBERS ABSENT

Senator David Wilson, Vice Chair

Senator Jesse Kiehl

COMMITTEE CALENDAR

SENATE BILL NO. 127

"An Act relating to vehicle rental taxes; relating to the issuance of subpoenas related to tax records; and providing for an effective date."

- MOVED CSSB 127(TRA) OUT OF COMMITTEE

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 128(TRA)

"An Act relating to the operation of a tank vessel or oil barge as an oil terminal facility; relating to the definition of 'oil terminal facility'; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 127

SHORT TITLE: TAXATION: VEHICLE RENTALS, SUBPOENAS

SPONSOR(S): SENATOR(S) CLAMAN

04/12/23	(S)	READ THE FIRST TIME - REFERRALS
04/12/23	(S)	TRA, FIN
04/20/23	(S)	TRA AT 1:30 PM BUTROVICH 205
04/20/23	(S)	Heard & Held
04/20/23	(S)	MINUTE(TRA)
05/02/23	(S)	TRA AT 1:30 PM BUTROVICH 205

BILL: HB 128

SHORT TITLE: OIL TERMINAL FACILITY

SPONSOR(s): TRANSPORTATION

03/22/23	(H)	READ THE FIRST TIME - REFERRALS
03/22/23	(H)	TRA
03/30/23	(H)	TRA AT 1:00 PM BARNES 124
03/30/23	(H)	Heard & Held
03/30/23	(H)	MINUTE(TRA)
04/18/23	(H)	TRA AT 1:00 PM BARNES 124
04/18/23	(H)	Heard & Held
04/18/23	(H)	MINUTE(TRA)
04/20/23	(H)	TRA AT 1:00 PM BARNES 124
04/20/23	(H)	Heard & Held
04/20/23	(H)	MINUTE(TRA)
04/25/23	(H)	TRA AT 1:00 PM DAVIS 106
04/25/23	(H)	Moved CSHB 128(TRA) Out of Committee
04/25/23	(H)	MINUTE(TRA)
04/26/23	(H)	TRA RPT CS(TRA) NEW TITLE 7DP
04/26/23	(H)	DP: STUTES, MINA, SUMNER, C.JOHNSON, MCKAY, VANCE, MCCABE
04/26/23	(H)	TRA CS ADOPTED Y38 N1 E1
04/28/23	(H)	TRANSMITTED TO (S)
04/28/23	(H)	VERSION: CSHB 128(TRA)
05/01/23	(S)	READ THE FIRST TIME - REFERRALS
05/01/23	(S)	TRA
05/02/23	(S)	TRA AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR MATT CLAMAN, District H
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 127

LIZZIE KUBITZ, Staff
Senator Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Reviewed the explanation of changes from version B to version S of SB 127.

CARRIGAN GRIGSBY, Executive Vice President
AVIS Alaska
Juneau, Alaska

POSITION STATEMENT: Testified in support of SB 127.

ADAM CRUM, Commissioner-Designee

Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on SB 127.

BRANDON SPANOS, Deputy Director
Tax Division
Department of Revenue
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on SB 127.

MACKENZIE CHASE, Government Affairs Manager
Expedia Group
Seattle, Alaska

POSITION STATEMENT: Provided testimony on SB 127.

HANNAH NOBLE, representing self
Palmer, Alaska

POSITION STATEMENT: Testified in opposition to SB 127.

BUDDY WHITT, Staff
Representative Kevin McCabe
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided the sectional analysis and presentation for HB 128.

KEVIN O'SHEA, President
Alaska Fuel Storage and Handlers Alliance
Eagle River, Alaska

POSITION STATEMENT: Provided invited testimony on HB 128.

REPRESENTATIVE KEVIN MCCABE, District 30
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of HB 128.

JIM BUTLER, Council
Alaska Fuel Storage and Handlers Alliance (AFSHA)
Kenai, Alaska

POSITION STATEMENT: Responded to questions about HB 128.

TIFFANY LARSON, Director
Spill Prevention and Response Division
Department of Environmental Conservation
Fairbanks, Alaska

POSITION STATEMENT: Provided agency commentary about HB 128.

ACTION NARRATIVE

[1:38:28 PM](#)

CHAIR JAMES KAUFMAN called the Senate Transportation Standing Committee meeting to order at 1:38 p.m. Present at the call to order were Senators Tobin, Myers, and Chair Kaufman.

SB 127-TAXATION: VEHICLE RENTALS, SUBPOENAS

[1:39:30 PM](#)

CHAIR KAUFMAN announced the consideration of SENATE BILL NO. 127 "An Act relating to vehicle rental taxes; relating to the issuance of subpoenas related to tax records; and providing for an effective date."

SENATOR TOBIN moved to adopt the committee substitute (CS) for SB 127, work order 33-LS0635/S, as the working document.

CHAIR KAUFMAN objected for the purpose of discussion.

[1:39:58 PM](#)

EMMA TORKELSON explained the changes between version B and version S.

Section 2. Page 2, Lines 1-3: Removes the original language and adds a reference to new subsection (c) created in Section 3.

Section 2. Page 2, Lines 4-6: Adds language requiring vehicle rental platform collecting the vehicle rental tax to pay the tax quarterly.

Section 3. Page 2, Lines 8-11: Creates new subsection (c) requiring a vehicle rental platform that arranged or executed more than 200 transactions in the state in the preceding calendar year to collect and pay to the department the taxes imposed under AS 43.52.010 - 43.52.099.

Section 3. Page 2, Lines 12-17: Creates new subsection (d) clarifying that a vehicle rental platform company is not liable for failing to collect or pay the vehicle rental tax if they were provided with incorrect or insufficient information. The company must demonstrate that a reasonable effort was made to obtain the correct or sufficient information from the person.

Section 3. Page 2, Lines 26-28: Defines "vehicle rental platform company" as a company whose primary business is arranging or executing the rental of vehicles through a vehicle rental platform.

[1:41:43 PM](#)

CHAIR KAUFMAN removed his objection; finding no further objection, CSSB 127, version S, was adopted. as the working document.

[1:42:06 PM](#)

LIZZIE KUBITZ, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, informed the committee that the first change added a substantial nexus standard of 200 transactions. The goal of the change was to omit the requirement to collect and remit taxes on platforms with minor activity. The second change involved the provision clarifying that the platform is responsible for organizing and filing documentation related to taxes. The third change involved the provision stating that platforms collecting the tax are not liable for information provided to them by the host or vehicle owner. She noted that all three changes were recommended by Turo.

[1:43:44 PM](#)

SENATOR MYERS asked about the definition of a motor vehicle. He wondered about electric-assisted bicycle rentals and taxation.

SENATOR CLAMAN responded that the electric-assisted bicycle legislation allows e-bikes to be treated like self-propelled bikes.

SENATOR MYERS pointed to the history of rental car taxation provided in the bill packet. He recalled that motorcycles were deleted from the rental car tax legislation in 2016. He asked why motorcycles were not taxed as rental vehicles anymore.

[1:45:38 PM](#)

SENATOR CLAMAN replied that he did not know.

SENATOR MYERS understood that the bill allows for the taxation of rental vehicles through approved platforms. He asked about a hypothetical vehicle loan to a friend. He wondered about a potential tax liability if the friend supplied gas money. He shared another story about a military family requiring a vehicle and the possibility of renting his car to them. He wondered if he would be liable for a vehicle rental tax in that situation.

SENATOR MATT CLAMAN, District H, Alaska State Legislature, Juneau, Alaska, sponsor of SB 127, replied that the first scenario involving gas money was not a rental agreement, simply a friendly exchange that would not be subject to a tax. Concerning the military family, he stated that the rental would be subject to a tax liability if the term was ninety days or less.

[1:48:03 PM](#)

SENATOR MYERS asked for a price comparison between Turo and conventional rental car companies before taxes.

SENATOR CLAMAN responded with an anecdotal experience. Turo rentals were more expensive during the Covid-19 pandemic. He shared that his daughter opted for a Turo rental recently because even though the prices were equivalent, she was certain to rent a particular vehicle through the Turo platform.

SENATOR MYERS replied that Turo may provide opportunities to test-drive specific vehicles.

[1:49:29 PM](#)

SENATOR MYERS asked what percentage of rental car business comes from out-of-state customers.

SENATOR CLAMAN responded that he did not know. He deferred the question to Mr. Grigsby with AVIS Alaska.

[1:50:12 PM](#)

CARRIGAN GRIGSBY, Executive Vice President, AVIS Alaska, Juneau, Alaska, responded to Senator Myers's question. He replied that a large portion of the AVIS Alaska business comes from out-of-state customers in the summer months.

SENATOR MYERS wondered if the majority of Turo's Alaskan business serves out-of-state travelers.

SENATOR CLAMAN shared a recent conversation with a Turo rental car owner relaying that summer business yields a greater number of out-of-state renters.

SENATOR MYERS asked about Section 1 of the bill. He recalled hearing that the section removed the extraneous language.

[1:52:00 PM](#)

SENATOR CLAMAN replied that the Department of Law and the Department of Revenue asked to include the language in Section 1. He shared that his experience as a trial attorney taught him that serving out-of-state subpoenas is more complicated than issuing a state subpoena. He suggested obtaining the perspective of the Department of Law or the Department of Revenue.

[1:53:17 PM](#)

CHAIR KAUFMAN highlighted the bill's intention to streamline business practices. He reminded the committee that the bill does not propose a new tax, but instead seeks to align processes with an out-of-state supplier.

SENATOR MYERS queried the opinion of the Alaska Court System about the change.

[1:53:53 PM](#)

SENATOR CLAMAN responded that he had not inquired.

[1:54:01 PM](#)

CHAIR KAUFMAN moved to invited testimony.

[1:54:30 PM](#)

ADAM CRUM, Commissioner-Designee, Department of Revenue, Anchorage, Alaska, stated that the responsibility for tax collection falls on the department. The bill protects Alaskans by adding compelling language for online rental platforms to collect and remit vehicle rental tax. He added that the department views the bill as straightforward and important for the Alaskan tourism industry and economy. He noted that the bill utilizes technology to collect and remit the tax, which is a statutory obligation.

[1:55:23 PM](#)

SENATOR TOBIN followed up on Senator Myers's question about motorcycles. She wondered why motorcycles are no longer taxed.

COMMISSIONER-DESIGNEE CRUM responded that he learned that HB 8 defines e-bikes as electric-assisted bicycles. He was unsure about the taxation of electric-assisted bicycles. He asked Deputy Director Spanos for his opinion.

[1:55:56 PM](#)

BRANDON SPANOS, Deputy Director Tax Division Department of Revenue, Anchorage, Alaska, responded that the term "vehicle rental" was a broad term when the tax legislation was initially introduced. He recalled that a taxable vehicle included a driver

plus a passenger. The department interpreted the bill language to include motorcycles, but the motorcycle rental company lobbied the legislature for an amendment to change the statute. It was the intent of the legislature not to tax motorcycles as vehicle rentals.

MR. SPANOS stated that vehicles are described as motor vehicles in the current statute, which eliminates electric-assisted bicycles from the bill.

[1:57:05 PM](#)

MR. GRIGSBY stated support for the CS for SB 127, version S.

CHAIR KAUFMAN noted that the committee invited Turo representatives to the meeting, but they were unable to attend.

[1:58:11 PM](#)

CHAIR KAUFMAN opened public testimony on SB 127.

[1:59:03 PM](#)

MACKENZIE CHASE, Expedia Group, Seattle, Alaska, testified in support of vehicle rental tax collection and remittance to the State of Alaska. She expressed concern that the current draft tasks online platforms like the Expedia Group with collecting and remitting vehicle rental taxes. She noted that traditional rental car companies excel at calculating and collecting car rental taxes. She stated that shifting the taxation to online travel agents will likely increase tax leakage. She asked the committee to amend the legislation to clarify that online travel agents are not subject to and responsible for the collection and remittance of vehicle rental taxes. She pointed out that the Anchorage municipality exempts tour companies and travel booking agents to ensure that taxes are collected, but online travel agents are not responsible.

[2:01:50 PM](#)

HANNAH NOBLE, representing self, Palmer, Alaska, testified in opposition to SB 127. She informed the committee that she was a co-host with Turo. She opposed the legislation because it lacks specificity about hosts' and guests' liability regarding vehicle rental tax collection and remittance. She opposed the ambiguous retroactive collection of taxes proposed in the legislation.

[2:03:01 PM](#)

CHAIR KAUFMAN closed public testimony on SB 127.

[2:03:34 PM](#)

SENATOR CLAMAN responded to the question the Expedia Group raised. He stated that the testifier's concern was addressed in the CS. He clarified that subsection (e)(3) of AS 43.52.050 in bill Section 3 identifies a vehicle rental company as "a company whose primary business is arranging or executing the rental of vehicles through a vehicle rental platform." The specific effect is to address a company like the Expedia Group, which books various forms of travel. Paragraph (3) in subsection (3) on page 2, lines 26-28 excludes companies like the Expedia Group from collecting and remitting taxes for vehicle rentals.

[2:05:10 PM](#)

CHAIR KAUFMAN referred to other organizations like Craigslist that provide similar vehicle rental services. He understood that the CS eliminates the risk of an undue burden placed on those types of platforms.

[2:05:38 PM](#)

CHAIR KAUFMAN moved to adopt Amendment 1, work order 33-LS0635\S.3.

33-LS0635\S.3
Nauman
5/2/23

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR CLAMAN
TO: CSSB 127(TRA), Draft Version "S"

Page 3, line 1:
Delete "one year"
Insert "six months" 3

Page 3, line 4:
Delete "one year"
Insert "six months"

SENATOR TOBIN objected for the purpose of discussion.

CHAIR KAUFMAN explained that the amendment simply deletes the one-year requirement and inserts "six months" for the resolution of back taxes.

SENATOR TOBIN removed her objection.

CHAIR KAUFMAN found no further objection and announced that Amendment 1 was adopted.

[2:07:18 PM](#)

At ease

[2:07:39 PM](#)

CHAIR KAUFMAN reconvened the meeting and solicited a motion.

[2:07:41 PM](#)

SENATOR TOBIN moved to report the Transportation CS for SB 127, [work order 33-LS0635\S as amended], from committee with individual recommendations and attached fiscal note(s).

CHAIR KAUFMAN found no objection and CSSB 127(TRA) was reported from the Senate Transportation Standing Committee.

[2:08:04 PM](#)

At ease

HB 128-OIL TERMINAL FACILITY

[2:09:58 PM](#)

CHAIR KAUFMAN reconvened the meeting and announced the consideration of CS FOR HOUSE BILL NO. 128(TRA) "An Act relating to the operation of a tank vessel or oil barge as an oil terminal facility; relating to the definition of 'oil terminal facility'; and providing for an effective date."

He noted that this was the first hearing and the intention was to hear the introduction, take invited and public testimony, and hold the bill for further consideration.

[2:10:19 PM](#)

BUDDY WHITT, Staff, Representative Kevin McCabe, Alaska State Legislature, Juneau, Alaska, introduced HB 128 with a PowerPoint. He began with slide 2, highlighting the bolded language in subsection (b) of 18 AAC 75.432.

[Original punctuation provided.]

18AAC75.432

(a) For a crude or non-crude oil terminal facility, the plan holder shall maintain or have available under contract within the plan holder's region of operation

or another approved location, sufficient oil discharge containment, storage, transfer, and cleanup equipment, personnel, and other resources to (1) contain or control and clean up within 72 hours that portion of the response planning standard volume that enters open water; and (2) contain or control within 72 hours, and clean up within the shortest possible time consistent with minimizing damage to the environment, that portion of the response planning standard volume that enters a receiving environment other than open water.

(b) The response planning standard volume for a crude or non-crude oil terminal facility is equal to the capacity of the largest oil storage tank at the facility covered by the plan, unless there are specific natural or manmade conditions outside the facility which could place the facility at an increased risk of an oil discharge affecting one or more storage tanks.

(c) For an increased risk described in (b) of this section, the response planning standard volume is equal to the capacity of all of the potentially affected oil storage tanks at the facility. The plan must set out the basis for selecting the storage tanks and the volume of oil planned for in the response. (d) The department will, in its discretion, reduce the requirements of (b) of this section, by a percentage up to that shown, for each of the following prevention measures in place at the facility: (1) alcohol and drug testing of key personnel: 5 percent; (2) an operations training program with a professional organization or federal certification or licensing of program participants: 5 percent; (3) on-line leak detection systems for tanks and piping: 5 percent; (4) a sufficiently impermeable secondary containment area with a dike capable of holding the contents of the largest tank, or all potentially affected tanks in the case of increased risk, and precipitation: 60 percent; (5) for secondary containment as described in (4) of this subsection, designed with the following enhancements, an additional allowance for (A) cathodic protection: 10 percent; (B) fail-safe valve piping systems: 15 percent; or (C) impervious containment area extending under the full area of each storage tank or double bottoms with leak detection: 25 percent; and (6) containment outside the secondary containment area: 10 percent.

[2:12:29 PM](#)

MR. WHITT moved to slide 3 relating to 18 AAC 75.432. Response planning standards for oil terminal facilities. He highlighted the bolded language in the last sentence.

18AAC75.432(b) with proposed language

(b) The response planning standard volume for a crude or non-crude oil terminal facility is equal to the capacity of the largest oil storage tank at the facility covered by the plan, unless there are specific natural or manmade conditions outside the facility which could place the facility at an increased risk of an oil discharge affecting one or more storage tanks. **For vessels operating as oil terminal facilities, the response planning standard is based on the entire storage capacity of the vessel.**

[2:12:48 PM](#)

MR. WHITT continued to slide 4, "Alaska Fuel Storage and Handling Association response to proposed change."

Delete the language added/proposed. What exactly is a "vessel operating as oil terminal facility"? Please define and provide parameters when a VESSEL (barge, NTV or TV) is considered an OIL TERMINAL FACILITY. Under the new requirements, would the RPS of a 120,000 bbl. non crude barge be 120,000 bbl.? Why isn't the 15% reduction (for calculating RPS of non-crude barge or tank vessel) utilized since these are VESSELS. Does DEC consider vessels moored offshore for transfer operations, to be a greater threat than a vessel transiting from port to port? Please provide examples (real world) of how a double-hulled vessel or barge will lose its entire cargo.

[2:14:07 PM](#)

MR. WHITT moved to slide 5, "Department of Environmental Conservation response (1/6/2023)."

The definition in 18 AAC 75.990 and AS 46.04.900(14) for "oil terminal facility" answers the commenter's question. The definition of "oil terminal facility" includes "a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to ship transfer of oil, and when it is traveling between the place of the ship-to-ship

transfer of oil and an oil terminal facility[.]” A vessel that falls under the definition in AS 46.04.900(14) is subject to the requirements for an oil terminal facility, including the requirement at 18 AAC 75.430(c)(1). The proposed edit to 18 AAC 75.432(b) provides additional clarity and will be retained.

[2:14:39 PM](#)

MR. WHITT moved to slide 6, “AS 46.04.900(14) - Current Statutory Definition of “Oil Terminal Facility.”

(14) “oil terminal facility” means an onshore or offshore facility of any kind, and related appurtenances, including a deepwater port, bulk storage facility, or marina, located in, on, or under the surface of the land or waters of the state, including tide and submerged land, that is used for the purpose of transferring, processing, refining, or storing oil; a vessel, other than a nontank vessel, is considered an oil terminal facility only when it is used to make a ship-to-ship transfer of oil, and when it is traveling between the place of the ship-to-ship transfer of oil and an oil terminal facility;

MR. WHITT noted that concern was raised the existing definition was too ambiguous.

[2:17:11 PM](#)

MR. WHITT continued to slide 7, “18 AAC 75.990(76) - Regulatory definition of “oil terminal facility.”

“oil terminal facility” has the meaning given in AS 46.04.900 and includes vessels classified as oil terminal facilities under 18 AAC 75.280

MR. WHITT stated that the purpose of slide 7 is ensure the committee understands that there are clear differences between an oil terminal facility and a vessel.

[2:17:24 PM](#)

MR. WHITT moved to slide 8, “18 AAC 75.280 Classification as an oil terminal facility.”

18 AAC 75.280 Classification as an oil terminal facility

(a) If a vessel is to operate as an oil terminal facility as defined at AS 46.04.900, the owner or operator shall submit a written request for classification of the vessel as an oil terminal facility to the department. The request for classification must include the

- (1) name of the owner or operator;
- (2) vessel name and official number;
- (3) oil storage capacity of the vessel;
- (4) type of product carried as cargo; and
- (5) period of time during which the classification will apply.

(b) Upon receipt of a request under

(a) of this section, the department will issue a certificate to the vessel, classifying the vessel as an oil terminal facility for the prescribed period.

(c) If the capacity of the vessel for which classification is requested is more than 10,000 barrels of noncrude oil, the owner or operator must meet the financial responsibility requirements of 18 AAC 75.235(a)(2) and the oil discharge prevention and contingency plan requirements of AS 46.04.030.

[2:17:38 PM](#)

MR. WHITT moved to slide 9.

- Alaska Statutes require land-based oil terminals and vessels that deliver oil as cargo to have oil spill response plans known as "contingency plans"
- Land-based terminals have a planning standard that requires equipment to respond to a spill from their largest tank.
- Vessel operators have a planning standard that requires equipment to respond to spill from a percentage of their total cargo.
- The planning standards differ because responding to a spill on land is different than on water.

Comingling and lack of clarity regarding the definition "oil terminal facility" is causing concern among fuel delivery vessel operators in Alaska

[2:18:38 PM](#)

MR. WHITT continued to slide 10.

It appears that the definition of "oil terminal facility" that includes vessels that transfer fuel to smaller vessels in state waters, now requires vessels that already have oil spill plans to now plan for and acquire tens of millions of dollars of new equipment to comply with oil terminal facility planning requirements.

The additional requirements and the financial commitments to meet them are a concern to stakeholders because those requirements will cost time and money which will be passed on to customers.

[2:19:30 PM](#)

MR. WHITT moved to slide 11, "Sectional Analysis of House Bill 128 Version U.

Section 1 - Page 1, lines 4 through 11 - adds language that an approved contingency plan for a tank vessel or oil barge satisfies the requirement in (a) of this section for contingency plans for oil terminal facilities.

Section 2 - Page 1, line 12 through Page 2, line 6 - adds language that proof of financial ability for a tank or oil barge that is approved under this subsection satisfies the requirements of (a) of the section for proof of financial ability for oil terminal facilities.

Section 3 - Page 2, lines 12 through 26 - changes the definition of oil terminal facility to confirm to the additions of sections one and two; specifying that when a tank vessel or oil barge are operating with approved contingency plans and proof of financial ability, they are not considered "oil terminal facilities".

Section 4 - Page 2, line 27 - Added an immediate effective date to the bill.

[2:21:21 PM](#)

SENATOR MYERS referred to the mention of ship-to-ship transfer. He asked about a ship-to-shore transfer. He wondered if the transfer would qualify the ship as an oil terminal.

MR. WHITT deferred the question to the experts who were available to answer questions.

CHAIR KAUFMAN moved to invited testimony.

[2:22:20 PM](#)

KEVIN O'SHEA, President, Alaska Fuel Storage and Handlers Alliance, Eagle River, Alaska, informed the committee that the alliance was a group of petroleum transporters and terminals operating throughout the state of Alaska. He explained that the group initially expressed concern with a recent regulation change. The concern was that the new regulations might lead to problems with insurance providers. Insurance carriers might not cover the alliance because they would be in direct violation of the statutes and regulations.

SENATOR MYERS repeated his question about whether the legislation should apply to ship-to-shore transfer.

MR. O'SHEA responded that if a vessel is involved in a ship-to-ship transfer of greater than 10 thousand barrels of fuel, the ship is classified as a terminal. He stated that the transfer requirement would apply to the barges traveling into the villages. He noted that certain barges would be considered a terminal at certain times, even if they were located at a terminal.

[2:24:39 PM](#)

SENATOR MYERS offered his understanding that Alaska produces jet fuel but does not produce aviation gas (avgas). He asked Mr. O'Shea if that was the case.

MR. O SHEA said yes.

SENATOR MYERS commented that if this change is required for ship-to-shore as well as ship-to-ship, then all crop planes in the state will be grounded this summer if the bill doesn't pass.

CHAIR KAUFMAN asked the sponsor if he'd like to comment.

[2:25:49 PM](#)

REPRESENTATIVE KEVIN MCCABE, District 30, Alaska State Legislature, Juneau, Alaska, explained ed that the bill was brought to the House Transportation Standing Committee by an Alaska fuel handlers group that utilizes barges to transfer fuel. The group identified an issue with the existing language

in the statute language. The legislation simply tightens up the language to the stakeholder's satisfaction.

CHAIR KAUFMAN clarified that the group was the Alaska Fuel Storage and Handlers Alliance (AFSHA).

REPRESENTATIVE MCCABE thanked the committee for hearing the bill.

CHAIR KAUFMAN asked Mr. O'Shea if he had any additional commentary on the bill.

[2:27:48 PM](#)

MR. O'SHEA stated support for the current version of HB 128 and expressed hope that the committee would help resolve the issue for the industry by passing the bill from committee.

[2:28:31 PM](#)

MR. WHITT responded to Senator Myers's question by pointing out that vessels are only considered oil terminal facilities when they are performing ship-to-ship duties or are enroute to a ship-to-ship transfer. He stated that the AFSHA performs other types of fuel delivery as well and only in certain instances are they considered oil terminal facilities. He suggested Jim Butler confirm that point.

[2:29:31 PM](#)

JIM BUTLER, Council for the Alaska Fuel Storage and Handlers Alliance, Kenai, Alaska, shared an example illustrating the ambiguity the regulations cause operators. The example involved a barge that is loaded in Nikiski, Alaska and travels to Dutch Harbor. The barge has a planning standard that has been met since it was adopted in the early 1990s. The hypothetical issue involved that same barge that might leave Dutch Harbor and travel to Nome where fuel is unloaded in a ship-to-ship transfer to smaller vessels that travel up the river. At this point, the planning standard would change significantly, making it physically impossible to have the proper equipment available. In the event of a casualty, even if a ship complied with the contingency plan as a "tank barge," there might still be problems with insurance coverage. Under that definition, the barge could have morphed into a terminal so the other measures apply. He noted an increase over the last several years with ship-to-ship transfers operating in Western Alaska because of the source of fuel that comes in to support the residential communities throughout the region.

MR. BUTLER thanked Representative McCabe and his staff for navigating through lawyers, the Department of Environmental Conservation, and industry to arrive at a workable solution. He pointed out that Section 3 clarifies that when a vessel has contingency plans and financial responsibilities in place, it does not convert into a different entity when delivering fuel one way versus another. He appreciated Section 4 because the fuel delivery season is beginning and the safe delivery of fuel is on everybody's mind. He hoped to eliminate confusion with the statute, the agency, or the industry.

[2:32:24 PM](#)

CHAIR KAUFMAN noted that Ms. Larson was available to answer questions

[2:32:52 PM](#)

TIFFANY LARSON, Director, Spill Prevention and Response DEC, Fairbanks, Alaska, stated that DEC is already doing what the bill proposes to achieve and has been complying with the required standards since the statutes were enacted in the 1990s. The legislation does not change DEC's existing practices. The department's only concern is the change in the definition section, which is considered substantive law. Should the bill pass, the department will have to look at every place in the statute that references "oil terminal facility" and determine the implications. She informed the committee that the packet from the department included letters addressing AFSHA's concerns.

[2:34:18 PM](#)

REPRESENTATIVE MCCABE responded that AFSHA brought the issue to him because of concerns about insurance liability, not concerns with DEC. He expressed appreciation for the cooperative work with all parties and specifically for the help his office received from DEC.

[2:35:35 PM](#)

CHAIR KAUFMAN opened public testimony on HB 128. Seeing no one online or in the room who wished to testify he closed public testimony.

[2:36:16 PM](#)

At ease.

[2:36:34 PM](#)

CHAIR KAUFMAN reconvened the meeting.

SENATOR TOBIN expressed her gratitude for the industry's concern that their practices match statutory authority.

[2:37:34 PM](#)

CHAIR KAUFMAN held HB 128 in committee.

[2:37:55 PM](#)

There being no further business to come before the committee, Chair Kaufman adjourned the Senate Transportation Standing Committee meeting at 2:37 p.m.