

SENATE

Introduced: 1/10/94
Referred: L&C, TRA

HOUSE

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EXECUTIVE ORDER NO. 89

1 Under the authority of art. III, sec. 23, of the Alaska Constitution, and in accordance
2 with AS 24.08.210, I order the following:

3 * **Section 1. FINDINGS.** As governor, I find that it would be in the best interests of
4 efficient administration to move the enforcement of size, weight, and load standards for
5 vehicles operating on the state highway system, and the authority to issue overweight and
6 oversize permits for vehicles operating on the state highway system, from the Department of
7 Commerce and Economic Development to the Department of Transportation and Public
8 Facilities. Vehicular size, weight, and load standards are enforced, in part, through fixed
9 weighing stations placed at strategic locations on the state highway system. Permits are
10 issued to allow vehicles to carry loads on the state highway system that cannot be reduced
11 to legal size and weight. Vehicular size, weight, and load standards are established by the
12 Department of Transportation and Public Facilities. Overweight and oversize vehicle permits
13 are issued by the Department of Commerce and Economic Development. Because the
14 enforcement of these standards and the issuance of those permits directly impact the operation
15 and maintenance of the state highway system, consolidating these two functions under the
16 Department of Transportation and Public Facilities will improve the state highway system.

17 * **Sec. 2.** AS 19.05.020 is amended by adding a new subsection to read:

18 (b) In accordance with the Administrative Procedure Act (AS 44.62), the
19 department specifically shall adopt regulations for the implementation and
20 enforcement of AS 19.10.060(b). These have the effect of law. The regulations may
21 include provisions governing the size, weight, and load limitations established under
22 AS 19.10.060(a); the issuance of permits for overweight and oversize vehicles; and
23 the operation of weighing stations.

1 * **Sec. 3. AS 19.10.060 is amended by adding a new subsection to read:**

2 **(b) The department shall operate motor vehicle weighing stations, issue**
3 **special written permits authorizing the operation of overweight and oversize vehicles,**
4 **establish fees for the overweight and oversize vehicle special permits, enforce the size,**
5 **weight, and load limitations adopted by the department under (a) of this section, and**
6 **adopt regulations relating to pilot car services and the enforcement of the size, weight,**
7 **and load limitations adopted under (a) of this section.**

8 * **Sec. 4. AS 19.10 is amended by adding new sections to read:**

9 **Sec. 19.10.061 ISSUANCE OF CITATIONS. (a) A peace officer or an**
10 **employee of the department who is authorized by the commissioner to enforce the**
11 **size, weight, and load limitations adopted under AS 19.10.060 may issue a citation**
12 **to a person who violates**

13 **(1) a weight, size, or load limitation;**

14 **(2) the terms of an overweight or oversize vehicle permit issued under**
15 **AS 19.10.060(b); or**

16 **(3) a regulation adopted under AS 28.05.011(2) or under**
17 **AS 19.05.020(b) or AS 19.10.060(b).**

18 **(b) A citation issued under this section must be in writing. A person**
19 **receiving the citation is not required to sign a promise to appear in court.**

20 **(c) The time specified in the notice to appear on a citation issued under this**
21 **section must be at least 15 days after the issuance of the citation, unless the person**
22 **cited requests an earlier hearing.**

23 **(d) The commissioner of public safety is responsible for the issuance of books**
24 **containing appropriate citations and shall maintain a record of each book and each**
25 **citation contained in it. The commissioner of public safety shall require and retain**
26 **a receipt for every book issued to an employee of the Department of Transportation**
27 **and Public Facilities designated by the commissioner of transportation and public**
28 **facilities to provide investigative services to enforce provisions of this chapter.**

29 **(e) A peace officer or an employee who issues a citation under this section**
30 **shall deposit the original or a copy of the citation with a court having jurisdiction over**
31 **the alleged offense. Upon its deposit with the court, the citation may be disposed of**

1 only by trial in the court or other official action taken by the magistrate, judge, or
2 prosecutor. The peace officer or employee who issued the citation may not dispose
3 of it or copies of it or of the record of its issuance except as required under this
4 subsection and (f) of this section.

5 (f) The commissioner of public safety shall require the return of a copy of
6 every citation issued under this section and of all copies of every citation that has
7 been spoiled or on which an entry has been made and not issued to an alleged
8 violator. The commissioner of public safety shall also maintain in connection with
9 every citation issued a record of the disposition of the charge by the court in which
10 the original or copy of the citation was deposited.

11 (g) If the form of citation issued under this section includes the essential facts
12 constituting the offense charged and is sworn to as required under the laws of this
13 state for a complaint charging commission of the offense alleged in the citation, the
14 citation when filed with a court having jurisdiction is considered to be a lawful
15 complaint for the purpose of prosecution.

16 (h) Unless the citation has been voided or otherwise dismissed by the
17 magistrate, judge, or prosecutor, or bail has been forfeited under AS 19.10.062, a
18 person who fails to appear in court to answer a citation issued under this section,
19 regardless of the disposition of the charge for which the citation was issued, is guilty
20 of a class B misdemeanor.

21 Sec. 19.10.062. BAIL FORFEITURE. (a) The supreme court shall specify
22 by rule or order those violations that are appropriate for disposition without court
23 appearance, and shall establish a schedule of bail amounts. The maximum bail
24 forfeiture amount for an offense may not exceed the maximum fine specified by law
25 for that offense. If the person who has been cited can dispose of the violation without
26 court appearance, the issuing peace officer or employee shall write on the citation the
27 amount of bail forfeiture applicable to the violation.

28 (b) A person cited for a violation for which a bail forfeiture amount has been
29 established under (a) of this section may, within 15 days after the date of the citation,
30 mail or personally deliver to the clerk of the court in which the citation is filed by the
31 employee

1 (1) the amount of bail indicated on the citation for that offense; and
2 (2) a copy of the citation indicating that the right to an appearance is
3 waived, a plea of no contest is entered, and the bail is forfeited.

4 (c) If the cited person has forfeited bail under (b) of this section, the court
5 shall enter a judgment of conviction. Forfeiture of bail is a complete satisfaction for
6 the violation. The clerk of the court accepting the bail forfeiture shall provide the
7 offender with a receipt stating that fact.

8 (d) A cited person who fails to pay the bail forfeiture amount established
9 under (a) of this section or to appear in court as required is guilty of a class B
10 misdemeanor.

11 (e) Notwithstanding other provisions of law, if a person cited for a violation
12 for which a bail forfeiture amount has been established under (a) of this section
13 appears in court and is found guilty, the court may not impose a penalty that exceeds
14 the bail forfeiture amount for that offense established under (a) of this section.

15 Sec. 19.10.063. OFFENSES AND PENALTIES. (a) A person commits a
16 violation subject to the penalty specified in AS 12.55.035(b)(5) if the person does one
17 or more of the following acts:

18 (1) violates a provision of an overweight or oversize vehicle permit
19 issued under AS 19.10.060(b);

20 (2) violates a weight, load, or size limitation established under
21 AS 19.10.060 or a regulation adopted under AS 19.05.020 or AS 19.10.060(b).

22 (b) Notwithstanding the maximum fine for a violation provided under (a) of
23 this section, a person who violates a regulation or special permit governing the weight
24 limit of a motor vehicle shall pay a penalty of \$.05 for each pound of weight over the
25 authorized weight limit for the vehicle.

26 * Sec. 5. AS 44.33.020(25); AS 45.75.050(b)(5), 45.75.131, 45.75.133, and
27 45.75.380(a)(10), 45.75.380(a)(11), and 45.75.380(b) are repealed.

28 * Sec. 6. TRANSITION. (a) Litigation, hearings, investigations, and other proceedings
29 pending under a law amended or repealed by the Order, or in connection with functions
30 transferred by this Order, continue in effect and may be continued and completed
31 notwithstanding a transfer or amendment or repeal provided for in this Order.

1 (b) Contracts, rights, liabilities, and obligations created by or under a law amended
2 or repealed by this Order, and in effect on March 11, 1994, remain in effect notwithstanding
3 this Order's taking effect. Records, equipment, appropriations, and other property of the
4 agency of the state whose functions are transferred under this Order shall be transferred to
5 implement the provisions of this Order.

6 (c) Regulations adopted by the Department of Commerce and Economic Development
7 under the authority of former AS 44.33.020(25) or former AS 45.75.050(b)(5) before
8 March 12, 1994, remain in effect until regulations are adopted under AS 19.05.020(b) or
9 AS 19.10.060(b) by the Department of Transportation and Public Facilities, and take effect.
10 The Department of Transportation and Public Facilities may enforce the regulations adopted
11 under former AS 44.33.020(25) or former AS 45.75.050(b)(5) until its own take effect.

12 * Sec. 7. This Order takes effect March 12, 1994.

DATED: _____

Walter J. Hickel
Governor