

2-10-82

H B 586

H B 169

HOUSE LABOR & CO. MERCE
STANDING COMMITTEE
February 10, 1982
1:12 p.m.

Members Present: Rep. Martin, Chairman
Rep. Bylsma, Vice-Chairman
Rep. Randolph
Rep. Rogers

Members Absent: Rep. Gardiner

COMMITTEE CALENDAR

HB 169 An Act relating to motor carriers.
HB 586 An Act relating to permits for overweight
vehicles.

WITNESS REGISTER

Andrew Hoge, Attorney
Alaska Trucking Association
437 E Street
Anchorage, Alaska
276-1726
Position Statement: Comments on HB 169.

Jeff Barry, Committee Aide
House Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811
465-3669
Position Statement: Results of research on HB 169.

Harry Carpenter, Chairman
Interior Energy Corporation
no address or phone given
Position Statement: Commented on HB 169

John Longmire
Alaska Trucking Association
800 Warehouse Avenue
Anchorage, Alaska
478-3531
Position Statement: Opposed HB 169.

Jean Kline
Associated General Contractors
134 Franklin Street
Juneau, Alaska 99801
586-1740

Position Statement: Comments on HB 586.

PREVIOUS ACTION

HB 169

No previous action.

Statutory Reference: AS 42.10.420(7).

Action Taken: Rep. Randolph moved to accept the proposed committee substitute for HB 169 for discussion. As there was no objection, the motion passed.

Rep. Randolph moved to report bill from committee. Rep. Bylsma moved to amend motion to refer bill to another committee. Rep. Martin amended motion to recommend referral to Transportation committee with a letter requesting the committee to expedite the bill and to take teleconference testimony from Anchorage and Fairbanks. Rep. Rogers objected. On the question (motion to amend): for--Martin, Bylsma; opposed--Rogers, Randolph. The motion failed. On the question (main motion to report bill from committee), for--Rogers, Randolph; opposed--Martin, Bylsma. The motion failed.

Rep. Randolph moved to report bill from committee with recommendation of referral to Transportation Committee. Motion passed without objection.

HB 586

No previous action.

Statutory Reference: AS 19.10.060.

Action Taken: Rep. Rogers moved to amend bill to add an effective date clause of July 1, 1982; seconded by Randolph. Rep. Rogers withdrew his amendment and moved to amend bill to add effective date clause of January 1, 1983. There being no objection, the motion passed.

Rep. Rogers moved to report committee substitute for HB 586, as amended, from committee. There being no objection, the motion passed.

ACTION NARRATIVE

Tape #12
Recording
Number 000

The meeting was called to order by Chairman Martin at 1:12 p.m. Members present were: Representatives Martin, Rogers, Randolph, and Bylsma. Representative Gardiner was absent. Rep. Martin brought HB 169 before the committee for consideration.

Rep. Randolph moved to accept the committee substitute for discussion; as there was no objection, the motion passed. Rep. Randolph explained the intent of the bill: to allow a person to lease his truck to an organization, and to work for that organization as driver of the truck leased.

Number 045

Andrew Hoge, counsel for Alaska Trucking Association, said that the definition of "private carrier" prohibits what the committee substitute does. He said the bill is inconsistent with the effect of "common carrier". He spoke of complications, such as insurance and safety requirements. He commented that the bill "rips the guts out of the motor carrier act."

Number 111

Rep. Randolph said he didn't see how leasing a truck would relieve the employer of the requirements Hoge spoke of, and asked Hoge for an example. Hoge responded that a common carrier is responsible for safety and insurance. If one is talking about a common carrier, there is no need for the bill, it is provided for. He asked clarification of the intent of the bill. There was discussion. Hoge said, in response to a question by Rep. Bylsma, that the bill seems to say that a private carrier could automatically become a common carrier, without a permit. He said there is a conflict in the language, that the bill creates a class of private carriers, which may not be the intent. He asked for time to submit specific comments. He was concerned that the bill does away with the effect of a common carrier.

Number 231

Rep. Rogers introduced HB 586, of which he is prime sponsor. He gave background and the effect of the bill. He said there are inconsistencies in the manner in which the Department of Public Safety issues permits (for overweight vehicles). He referred to

letters from contractors setting out their problems. (Copies of these letters were given to the committee members, and are available from the committee.) Rep. Bylsma felt the Department of Transportation would be likely to do the same thing. Rep. Rogers responded that the Department of Transportation understands contractors' difficulties better. He said the Dept. of Public Safety seems more nit-picky. He said the bill was submitted, in part, to draw attention to the problem. There was discussion.

Number 304

The committee took up HB 169 again for further discussion.

Number 332

Jeff Barry, committee aide, gave the historical aspect of HB 169. He said a common carrier or contract carrier could lease a vehicle from its employees, but a private carrier could not. He said the bill was not intended to give authority for a private carrier to expand into contract carriage, but was solely for an employer/employee situation. He went over protections (insurance, etc.) and situations where the bill would apply. He suggested including a letter of legislative intent to clarify what the bill should do.

Number 412

Larry Carpenter, Chairman of Interior Energy Corporation and a private carrier, gave his personal situation as an example. He said the bill should eliminate discrimination against a private carrier. There was discussion.

Number 652

John Longmire, Alaska Trucking Association, said under the bill, any owner/operator would become a private carrier. He gave an example of how the bill could be abused. He said a situation could result that would create unfair competition to the common carriers. There was discussion about possible abuses and insurance problems. Carpenter said the statutes set stringent guidelines, and suggested talking to someone from the Alaska Transportation Commission regarding the likelihood of a private carrier becoming a common carrier without a permit. There was further discussion.

Side B, Number 162

Rep. Randolph moved to pass the bill. Rep.

Bylsma asked to hear the Alaska Transportation Commission's opinion; Rep. Rogers agreed, as Labor & Commerce is the last committee of referral. He noted that he had received requests for a teleconference. Rep. Martin agreed that further testimony should be taken. He said that he was going to recommend another committee referral.

Rep. Bylsma moved to amend the motion pass the bill by requesting another committee referral. Rep. Rogers felt Labor & Commerce should take further testimony rather than requesting another committee referral. Rep. Martin said he had spoken with Rep. Cato (chairman of House Transportation Committee), who deals regularly with the ATC; he felt the Transportation Committee would have a better opportunity to take further testimony.

Rep. Martin amended the motion to recommend referral to Transportation Committee, with a letter requesting they expedite the bill and take teleconference testimony from Anchorage and Fairbanks. Rep. Rogers objected. On the question, for--Martin, Bylsma; opposed--Rogers, Randolph. The amendment failed. On the question of reporting the bill from committee, for--Randolph, Rogers; opposed--Martin, Bylsma. The motion failed.

Rep. Randolph moved to report the bill from committee with a recommendation of referral to the Transportation Committee. The motion passed without objection.

Number 252

The committee returned to consideration of HB 586.

Jean Kline, Alaska Chapter, Associated General Contractors, said HB 586 addresses a considerable problem in the construction industry. She gave background and examples of past difficulties. Kline felt that Department of Transportation has a better knowledge of the industry than the Department of Public Safety. There was discussion.

Number 356

Rep. Bylsma questioned why one department would do better than another. He pointed out that employees of the Dept. of Public

Safety are trained in law enforcement. He felt transferring powers to the Dept. of Transportation would create another enforcement entity, and he expressed concern about giving another agency that kind of power.

Number 370

Kline responded that Dept. of Commerce has enforcement powers, as do other agencies. She said the Dept. of Transportation is concerned with safety, and they set restrictions on roads and bridges. There was discussion. Rep. Bylsma said the Commissioner of Public Safety had asked the committee to take no action on the bill until his agency could testify. Rep. Rogers said the committee had the Dept. of Public Safety's testimony on a similar senate bill.

Number 452

Jeff Barry, committee aide, said that, in most other states, there is a separate division within the department of public safety which is responsible for weights and measures.

Number 493

Rep. Rogers moved to amend HB 586 to add an effective date clause of July 1, 1982; motion was seconded by Rep. Randolph. After discussion, Rep. Rogers withdrew his amendment, and moved to add an effective date clause of January 1, 1983. There being no objection, the motion passed. Rep. Rogers then moved to report the committee substitute for HB 586, as amended, from committee. Being no objection, the motion passed.

Number 523

There being no further business to come before the committee, the meeting was adjourned.

2/10/82

000 1:12 Call to order by Martin

AB 009 Randolph re HB 169 a comm. sub.

169

Moved to accept CS for discussion; no objection
Explained intent of bill - person can lease vehicle
& work driving the truck leased.

045 Andrew Hoge, Counsel for Ak Trucking Assoc.

Spoke of definition of "private carrier." Definition
of "common carrier" prohibits what CS does. Bill
nullifies effect of "common carrier" - inconsistent.

Spoke of complications - insurance & safety regmts, etc.
"Rips" ^{you} guts out of the motor carrier act."

111 Randolph - doesn't see how leasing truck wd relieve
employers of regmts Hoge spoke of. Asked for examples
of problems described by Hoge

132 Hoge - common carrier is resp for safety, insurance;
~~under this provision~~ If trucking abt common carrier,
no need for bill, it's provided for. If applied to any
employer (not common carrier), - asked clarification.
Discussion - Randolph, Hoge

189 Byers. ~~do~~ wd bill let ~~person~~ private carrier
automatically become common carrier w/o permit?
Hoge - seems to say that. There's a conflict in language.
Creates class of private carriers, which may not be
intent of bill. Asked for time to submit specific
comments. Concerned that bill does away with
effect of common carrier.

231 HB 586 - Intro by Rogers, effect of bill. Background.
Inconsistencies in way Dept Pub Safety issues permits.
Referenced ltr (~~has to~~ given to committee) from
contractors setting out their problems.

259 Dylsma - Wdn't Dept of Trans be likely to do
same thing

Rogers - Trans understands contractors difficulties
better. Pub Safety seems more nit-picky. May not
change, but existing enforcement leaves something
to be desired. Bill submitted in part to draw att. to prob.

Dylsma - Trans already overburdened.

Rogers - DOT wd be less likely to nit-pick.

Discussion.

304 ^{HB 169} / Hoge - wd like to discuss w/ assocns board; ^{asked for} ~~wd like time~~
to study bill.

Discussion.

Martin asked for Barry's comments

332 Barry - gave historical aspect of bill. Common carrier,
or contract carrier cd. Prose for employees, but private carrier
cd not. Not to give authority for private carriers to
expand into contract carriage, but solely for employer/
employee Act. Went over: protections (ins., etc) &
w/ tiep
w/ ties. Suggested including legislative intent, to clarify.

HB 169

412 Larry Carpenter, Chma, Interior Energy Corp - private carrier. Have personal situ as example. Bill shd eliminate discrimination against private carriers

530 Rogers - gtm - suggest allow private owner/operator to become common carrier by leasing/driving to different outfits.

Carpenter - suppose he could quit & go to another employer, but doesn't see what difference that wd make.

Discussion.

~~538~~ ~~to be~~ ~~gatus~~ ~~char~~

600 Carpenter - went over points again
Randolph - reiterated reasons for bill.
Discussion.

652 John Longmayer, _____ Motor Freight, ^{under bill,} any owner/operator will become private carrier. Have example of how private carrier cd approach companies & offer svcs ~~that~~ that wd normally be obtained fm a common carrier at lower cost; unfair competition. Liability gatus also. Not remote possibility, but very likely.

700 Rogers - agree w/ intent to solve prob raised by Carpenter; wd it be possible to limit times this cd be done;

side 2
000

Randolph - comments (wdn't affect anything.)

Discussion - abuse, insurance

080 Carpenter - statutes set stringent guidelines. Sugg ⁵⁰⁹ talking to someone fm ATC regarding ^{likelihood of} ~~whether~~ private carrier becoming common carrier w/o permit.

Discussion.



108 Barry - construction industry, there is an exemption.

Bill clearly establishes that indv'l must be legit.

employee; re ~~to~~ going from job to job - that occurs now.

164 Randolph moved to pass bill

Bylsma asked to hear ATC's opinion; Rogers agreed as C&C is last comm. of referral; also has had requests for teleconf.

Martin was going to ask for another referral & also saw need for teleconf. also wd be able to have ATC testimony at that time.

Bylsma moved to amend mo to refer bill to another comm.

Rogers felt ~~to~~ C&C shd hold teleconf & not refer bill

~~Randolph's~~ discussion. Randolph concerned abt C&C calendar.

Martin has spoken w/cate, who has less heavy calendar & deals regly w/ATC. Felt Trans. Comm wd have better opportunity.

Rogers said ~~re~~ comm cd recommend referral.

Martin amended mo to recommend referral to Trans w/ ltr requesting expedite bill & taking teleconf test. from Ave & 7th

expedite teleconf Ave 7th

~~Martin~~ Rogers objected

opposed - Rogers Randolph

favor - Martin Bylsma

mo to pass bill

favor - Rogers R

opp'd Martin - Bylsma recommends

Randolph moved to refer bill ~~to~~ ~~Trans Comm.~~ ~~6 6~~ ~~in~~ ~~referral~~ ~~to~~ ~~Trans Comm.~~ ~~6 6~~

unanimous consent.

HB 586

252 Jan Cline - At Chap ATC - vice addresses considerable
prob in const industry. Have background & examples
of past difficulties. DOT has better knowledge of
industry than Dept PS

350 Randolph - comments

Bylsma - gets why one dept wd do better than another -
put safety trained in law enforcement; creating another
enforcement entity, which gives prob; why wd one be better
than another.

370 Cline - Commerce has enforcement prob, as do other agencies.

Trans is concerned w/ safety & they set ~~weight / height~~
restrictions on roads & bridges. ~~Trans don't have~~
Discussion.

Bylsma - Comm Pub Safety has asked Comm to take
no action until they can testify

Rogers - have their testimony on a similar senate bill

452 Barry - appears concerns justified - most other states,
there ^{is} separate depts w/in pub safety, for weights &
measures. ~~idea of splitting functions~~ ~~currently~~
~~to~~

490 Rogers moved amend to add eff date clause 7/1/82;

Second Randolph,
W/drew, ^{& removed w/} eff 1/1/83

~~The~~ No obj, no passed

Rogers moved to ^{report} ~~pass~~ out CS for HB 586, am

No obj, no passed.

523

Mtg adjourned.

LABOR & COMMERCE COMMITTEE
DAILY COMMITTEE HEARING

Date: 2/10/82

Place: _____

<u>Members</u>	<u>Present</u>	<u>Absent</u>	<u>Time Arrived</u>	<u>Time Left</u>
Rep. B. Bylsma, V. Chair	✓		1:02	
Rep. D. Randolph	✓		1:10	
Rep. B. Rogers	✓			
Rep. T. Gardiner			1:01	
Rep. T. Martin, Chair	✓		1:00	

Subject Matter:

House Bill No. 169 586 _____

Senate Bill No. _____

Special Orders: