

HB

376

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



POUCH V
JUNEAU ALASKA 99811
(907) 465-4737
PO BOX 1065
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(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

MEMORANDUM

TO: Rep. Bette Cato, Chairman
Transportation Committee

FROM: Rep. John Binkley *John B.*

DATE: April 15, 1985

RE: House Bill 376 - "An Act relating to municipal regulation of vehicles for hire" by Rep. John Binkley

Sectional Analysis

Sec. 1 Amends AS 29.48.035, adding a new subsection to read:

(d) Allows municipalities to license and regulate taxicabs and other vehicles for hire, allows them to fix, set and change rates, and they may regulate entry into the businesses.

COMMITTEE REPORT

(7)

Date referred: 1/24/86

FURTHER REFERRALS: JUDICIARY

(referral to c&ra added 1/24)

DATE: _____

The COMMUNITY & REGIONAL AFFAIRS Committee has considered HB 376

"An Act relating to municipal regulation of vehicles for hire."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CSHB376 (CRA) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - raw fiscal note
 - zero fiscal note

SIGNING DO PASS:

F. Kufwalle

SIGNING OTHER RECOMMENDATIONS:

W. J. Marlow DO NOT PASS
W. J. Turney DO NOT PASS
Bob & Carol No Rec
Rt. Jones No Rec

VIOLATES SPIRIT OF NOV. 84
 TRANSPORTATION REGULATION
 SECTION 1-1

[Signature]

 Chairman

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 376 (Trsp)
 Title : "An Act relating to municipal regulation of vehicles for hire..."

Sponsor : Binkley / H. Trsp. Comm.
 Requestor : H. Community & Regional Affairs
 Date of Request : 2/03/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Motor Vehicles

Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This act doesn't directly affect the Department of Public Safety.

Prepared by : K. Niles
Kathy Niles, Admin. Ass't
 Division : Commissioner's Office

Phone : 465-4336

Date : 2/03/86

Approved by Commissioner : [Signature]
 Agency : Public Safety

Date : 2/3/86

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

Offered: 1/24/86
Referred: Judiciary

Original sponsor: Binkley

BY THE TRANSPORTATION
COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 376 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal regulation of vehicles
7 for hire; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.35 is amended by adding a new section to read:

10 Sec. 29.35.142. REGULATION OF VEHICLES FOR HIRE. A municipality
11 may license, control, regulate, and establish standards for the safe
12 operation of taxicabs, limousines, or other vehicles for hire within
13 the boundaries of the municipality and may fix, establish, and change
14 rates charged for the service. The municipality may regulate entry
15 into the business of providing taxicabs, limousines or other vehicles
16 for hire.

17 * Sec. 2. This Act takes effect March 1, 1987.

Introduced: 4/12/85
Referred: Transportation and
Judiciary

1 IN THE HOUSE

BY BINKLEY

2

HOUSE BILL NO. 376

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to municipal regulation of vehicles
7 for hire."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.48.035 is amended by adding a new subsection to
10 read:

11 (d) A municipality may license, control, and regulate taxicabs,
12 limousines or other vehicles for hire that are operated within the
13 boundaries of the municipality and may fix, establish, and change the
14 rates charged for the service. Based on the municipality's determina-
15 tion of need for the services, the municipality may regulate entry
16 into the business of providing taxicabs, limousines, or other vehicles
17 for hire.

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



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JUNEAU ALASKA 99811
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REPRESENTATIVE JOHNE BINKLEY

January 28, 1986

TO: Representative Peter Goll
Chairman
Community and Regional Affairs Committee

From: Representative Johne Binkley

A handwritten signature in dark ink, appearing to read "Johne Binkley", written over the printed name.

Re: House Bill 376

House Bill 376 (CS Transportation) is now in your Committee. It provides local municipalities the statutory authority to regulate entry into the business of taxicabs, limousines, and other vehicles for hire. Further, the municipality may license, control and regulate the above, as well as fix, establish, and change rates charged for the service.

To explain the purpose of the bill, the Attorney General states; House Bill 376 does not appear either to add or subtract from this authority, although it sets out the authority somewhat more cogently than present law."(AS 29.48.035)

I am requesting the Committee members consider a slight change suggested by Legislative Legal Services-on lines 12 and 16 change "other vehicles" to read "other passenger vehicles". Also, please consider deleting Sec. 2 which is not necessary nor desirable.

RECEIVED JAN 22 1986

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

3867

MEMORANDUM

January 22, 1986

SUBJECT: Municipal regulation of vehicles for hire
(Work Order No. 14-1628)

TO: Senator John Sackett
Attn: Max Gifford

FROM: Michael F. Ford *M.F.*
Legislative Counsel

I wanted to point out two issues that will affect the draft I have prepared concerning municipal regulation of vehicles for hire. By initiative effective February 28, 1985, AS 29.35.140 was enacted which provides that a municipality may not regulate transportation of passengers if the regulation conflicts with regulations formerly in existence on April 1, 1983, adopted by the Alaska Transportation Commission under former AS 02.05, AS 42.07, or AS 42.10. Due to the time constraints of your work order, I have not yet determined if this draft is in conflict with the regulations. I have therefore assumed that a conflict does exist and given this work order a delayed effective date in order to avoid violating Article XI, section 6 of the Constitution of the State of Alaska, concerning repeal of an initiative.

I also wanted to point out that the initiative might not apply to home rule municipalities, in that the initiative does not amend AS 29.10.200, which is the section limiting home rule municipal powers. The initiative would apply to general law cities, boroughs, and unified municipalities.

Please let me know if you wish me to determine if the delayed effective date is necessary.

MFF:mkr
M2:065

Enclosure

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 24, 1985

The Honorable John Binkley
Representative
Pouch V
Juneau, AK 99811

Re: House Bill 376

Dear Representative Binkley:

Attorney General Gorsuch has referred your letter of April 17, 1985 to this section for comment.

The proposed legislation would not change the existing municipal exemption from antitrust liability as regards taxicab regulation. AS 29.48.035 gives municipalities authority to "regulate ... vehicle ... traffic, and licensing and operation of motor vehicles" [AS 29.48.035(a)(1)], to "regulate ... licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers" [AS 29.48.-035(a)(2)], and to "regulate ... transportation fares" [AS 29.-48.035(a)(4)]. This broad grant of authority would seem to cover all aspects of the taxicab industry. House Bill 376 does not appear to either add to or subtract from this authority, although it sets out the authority somewhat more cogently than present law.

Because the present law grants municipalities such broad authority, the municipalities are exempt from both state and federal antitrust liability. Parker v. Brown, 317 U.S. 341 (1943); Golden State Transport v. City of Los Angeles, 726 F.2d 1430 (9th Cir. 1984). House Bill 376 would not affect the exemption. Commissioner John Pugh, Department of Health and Social Services, recently requested our opinion about an analogous situation involving municipal regulation of ambulance services. A copy of our opinion is attached for your information.

The Anchorage price-fixing case you mention did not involve application of the municipal antitrust exemption. Anchorage ordinances allow private taxicab companies to set whatever fares they choose, up to a maximum charge. Two competing

taxicab companies, it was alleged, got together and agreed to charge the maximum fare, and no lower. This flew directly in the face of the ordinance, which was intended to promote fare competition in the Anchorage taxicab industry. The companies were not "expressly required" by Anchorage ordinance to fix prices, and thus their private activity could be challenged under the anti-trust laws. AS 45.50.572(g). The municipality was not involved in this price-fixing, and thus the municipal exemption did not apply.


We do not have any specific information concerning how municipal regulation of taxicabs has been beneficial or detrimental to consumers. As you are probably aware, this has been the subject of much debate in the Anchorage Assembly over the last year. Assemblyman John Wood has very strong opinions on the subject, and may be better able to assist you in this regard.

Please feel free to call if you have any questions, or if I can be of any further assistance in this matter.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Richard D. Monkman
Assistant Attorney General
Antitrust Section

RDM:and

Enclosure

cc: Art Peterson,
Assistant Attorney General
Juneau



FEDERAL TRADE COMMISSION

Seattle Regional Office
2806 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4655

April 18, 1985

The Honorable John Binkley
Alaska House of Representatives
Pouch V.
Juneau, Alaska 99821

Dear Representative Binkley:

As your staff member, Marybeth Hilburn, requested, I am enclosing some materials on taxicab regulation. The first item is a letter we sent to John Wood of the Anchorage Assembly supporting the issuance of additional taxicab permits. I am also enclosing a report on taxicab regulation prepared by the FTC's Bureau of Economics.

In our conversation, Ms. Hilburn suggested that perhaps it is appropriate to let cities resolve municipal regulatory questions without interference from state or federal authorities. I think that viewpoint overlooks a more basic question, which is why should cities be given the authority to supplant free market competition? It is the mission of the Federal Trade Commission to protect the opportunity of business people, such as taxicab operators, to compete freely. Our report, as well as others cited in the Anchorage comments, indicates that fare and entry regulation cause consumers to pay higher fares and restrict the opportunities for many people to operate taxicabs. For these reasons, the staff of the Federal Trade Commission have opposed regulation of the fares or entry of taxicabs. On the other hand, in the Anchorage comments, and comments to others, the staff of the Commission have supported municipal regulation in areas where the city has a legitimate interest, such as vehicle safety and operator competence.

Ms. Hilburn explained that you have proposed a bill to authorize the regulation of taxicabs by municipalities in Alaska. If you so request, I would be happy to arrange formal, Commission-approved, staff comments on your specific proposal. I should forewarn you that normally the approval process takes at least a couple of weeks after I receive your request and a copy of the bill itself.

Sincerely yours,

Ross D. Petty

Ross D. Petty
Assistant Regional Director

Enclosures



FEDERAL TRADE COMMISSION

Seattle Regional Office
2806 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4656

February 11, 1985

Assemblyman John Wood
4757 Business Park Blvd.
Anchorage, Alaska 99503

Dear Assemblyman Wood:

As you requested, we are sending you information on recent Commission activity concerning taxicab regulation along with our views on your proposed ordinance AO #84-251. The ordinance would provide for the issuance of an increase of 25 new taxicab permits or a 25 percent increase in the total number of permits each year, whichever is greater. I understand that two alternative ordinance provisions also are being considered calling for (1) a 10% annual increase in permits or (2) hearings upon application for one or more new permits to determine the public convenience and necessity of new permits. We are grateful for this opportunity to present our views and hope they will be of assistance to the Assembly in its consideration of this legislation.

This letter represents the views of the Seattle Regional Office and the Bureaus of Competition, Economics, and Consumer Protection of the Federal Trade Commission. The views expressed here are not necessarily those of the Commission or of any individual Commissioner, although the Commission has authorized the presentation of these views.

As you may know, the Federal Trade Commission staff has had an interest in the competitive effects of taxicab regulation for some time. As long ago as 1978 the Seattle Regional Office submitted comments in support of the deregulation of taxicabs in that city. More recently the Commission staff has submitted its views on legislation relating to taxicab regulation to the city governments of Seattle, Chicago, San Francisco, and the District of Columbia as well as to the Colorado State legislature. Such comments are consistent with the Commission's dual goals of promoting competition and protecting consumers.

In 1984 the Commission issued complaints¹ against the municipal governments of Minneapolis and New Orleans for engaging in regulatory activities that had the effect of limiting the number of taxicab licenses, increasing fares, and eliminating

¹ The Commission vote on issuing these complaints was 3-2, with Commissioners Bailey and Pertschuk dissenting.

competition. The complaints indicated that the Commission had reason to believe that the two cities, in concert with local cab companies, had violated the antitrust laws, by restricting entry into the market without having been sufficiently authorized to do so by the state legislature. The state of Louisiana later passed a law permitting its cities to regulate taxicab entry and fares. On the other hand, Minneapolis joined those cities that have chosen to permit more competition among taxicabs by amending its ordinance to permit more entry.

At the same time the Commission issued these complaints, it also released a 176-page report entitled "An Economic Analysis of Taxicab Regulation" by its Bureau of Economics. The principal conclusion of this study is that no persuasive economic rationale exists for restrictions on the total number of taxicabs. The study found that such restrictions waste resources, harm consumers, and impose a disproportionate burden on low income people. By contrast, the report supports in principle other kinds of taxicab regulations dealing with vehicle safety and liability insurance. I understand that you already have a copy of the Bureau of Economics report.

The conclusions of the Commission's Bureau of Economics study are not unique. Another recent study, commissioned by the U.S. Department of Transportation, concluded that the combination of restraints on entry of new cabs and regulations preventing fare discounting cost consumers nearly \$800 million annually and the loss of 38,000 jobs in the taxi industry. Anchorage recently began to allow fare competition. Enactment of the proposed ordinance will lift entry restrictions and is likely to further benefit consumers and suppliers of taxicab services in Anchorage.

Citizens of Seattle, Washington have been enjoying the benefits of deregulation since 1978. During that time, over 200 new jobs for cab drivers have been created. Waiting times for cabs have dropped with the greater number of cabs available. Fares have risen more slowly than transit prices generally. Taxi fares in Seattle are currently approximately 10-15 percent lower than what we estimate they would have been under continued regulation.² Despite efforts to reinforce entry and fare regulations, the city of Seattle has thus far rejected proposals to reestablish such regulations. Other cities that have benefitted from reform of taxicab regulations to permit more entry include Milwaukee and Madison, Wisconsin; Jacksonville, Florida; Spokane, Washington; San Diego, Oakland, Berkeley, and Sacramento, California; and Phoenix and Tucson, Arizona.

² Zerbe, Seattle Taxis: Deregulation Hits a Pothole, Regulation, Nov./Dec. 1983 at 43.

An additional problem with restricted entry is that it affects most those consumers who are most dependent on cabs for transportation and the procurement of necessities: the handicapped, the poor, and the elderly. The members of those groups spend a larger proportion of their incomes on taxi rides than do other segments of the population. A recent study in Seattle indicated that such financially disadvantaged consumers make up 25 percent of total taxicab ridership.

Who gains from entry limitations like Anchorage's? The principal beneficiaries of maintaining the current system are the current holders of taxicab permits. Limitations on the number of permits enables the holders of these taxicab permits to earn supracompetitive profits. For example, we understand that the City of Anchorage charges \$750 per year for a permit. Owners of those permits typically resell them for as much as \$45,000. To cover such a high acquisition cost, the permit holder would have to collect \$12.50 a day from the cab driver using the permit.³ In other words, it would take more than a driver's first fare (on average) to pay this supracompetitive profit.⁴ This is in addition to the cost of purchasing or leasing a cab, the cost of gasoline and insurance, or a take home wage for the driver. This daily expense does not go to cover any of the real costs of providing service, nor is it a tax to maintain the streets. It is simply a cash transfer from consumers to permit holders.

Proponents of restricted entry typically argue that without entry restrictions there will be "too many" taxis. They argue that cab fares will increase and the quality of cabs, drivers and service will decrease. However, the value of a permit demonstrates conclusively that there are too few cabs. Deregulation does not mean letting anyone put any junk vehicle regardless of its condition on the road. There is nothing in the concept of free entry to prevent Anchorage from maintaining reasonable levels of safety and quality in the city's taxicab fleet and establishing reasonable skill and knowledge requirements for

3 At an annual interest rate of 10%, \$45,000 represents the capitalized value of a perpetual stream of profits of \$4,500 per year. For a cab in operation 360 days each year, \$12.50 must be collected each day to equal \$4,500 in one year.

4 The Alaska Attorney General's office estimates the average taxi fare to be about \$10. Anchorage Times, A-1, 12 (January 23, 1985).

drivers.⁵ Open entry means, rather, giving licensees who are qualified the chance to compete and giving consumers lower fares.

Open entry does not necessarily mean that new taxi cabs will simply charge the maximum fares now allowed by Anchorage. The actual fare will be set by competitive forces. Checker and Yellow Cabs' recent experience of trying to charge \$2.00 per mile when rival Alaska Cab was charging \$1.40 per mile illustrates this effect.⁶ Newcomer Alaska Cab's market share went from approximately 12 percent to 70 percent in just 4 months according to estimates by the Attorney General's office. After that time, Yellow and Checker reduced their fares to \$1.40. Reports of the benefit of competition come also from Jacksonville, Florida, and Madison and Milwaukee, Wisconsin, to name a few. Special senior citizens discounts became available in Madison, Sacramento, and Tucson following deregulation.

Open entry does not mean that service will decline. Many cities report that service has improved under deregulation. In Jacksonville, Oakland and San Diego open entry led to an increase in fleet maintenance and a reduction in vehicle age as new fleets entered the market. In Milwaukee, Santa Barbara, and Seattle taxi competition reduced the waiting time for a cab.

Finally, open entry does not mean that all taxicab operators will go broke. As with most businesses, those operators offering higher quality service at lower prices will prosper while less competitive operators will not. This is precisely what happened in Anchorage in the beginning of 1984 and that experience illustrates how Anchorage taxicab consumers respond to competition.

The Assembly is considering three alternative ordinance provisions, all of which seek to ensure new entry but also restrict the amount of new entry. We believe that no entry restrictions beyond those for safe and competent service are necessary. We urge the Assembly to minimize any other restrictions on entry.

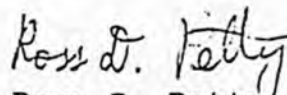
5 Section 11.10.080 of each of the proposals requires vehicle inspections to ensure safety. If the minimum levels for quality and safety were set arbitrarily high enough, they could act as de facto restrictions on entry. However, reasonable standards should not have any significant anticompetitive effect.

6 For a story on the related price-fixing settlement, see Anchorage Times, A-1, 12 (January 23, 1985).

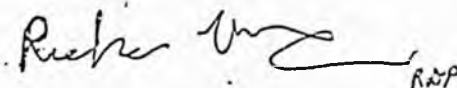
In sum, based on the economic evidence and recent experience throughout the country, we strongly support issuance of more taxicab permits in Anchorage. Freer entry into the taxicab business, consistent with maintenance of safe and competent service, will benefit Anchorage residents and visitors by reducing waiting times for taxis, fostering fare discounting, and creating employment opportunities.

We sincerely thank you for the opportunity to comment on the proposed ordinance AO #84-251.

Sincerely yours,



Ross D. Petty
Assistant Regional Director



Richard O. Zerbe, Jr.
Consulting Economist



RECORDS CERTIFICATION



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James O. Smith
Signature of Camera Operator

7/25/89
Date