

HB

195

Bill No. Committee Substitute for
House Bill 195 (Transportation)
Title "An Act excluding services provided by
certain taxicab operators from the
definition of employment for unemployment
compensation coverage."

Date April 13, 1987

Contact: Joe Sitton
465-2712

Eileen Plate
465-2700

Committee Substitute for House Bill 195 (Transportation) seeks to categorically exclude certain taxicab operators from the definition of employment for the purposes of unemployment insurance coverage.

The Department opposes the proposed exclusion since persons, including taxicab operators, who are performing as independent contractors, are presently excluded from unemployment insurance coverage under AS 23.20.525(a)(10). Under this current law, a person's status as an independent contractor is shown to exist if:

(A) the individual has been and will continue to be free from control and direction in connection with the performance of the service, both under the individual's contract for the performance of service and in fact;

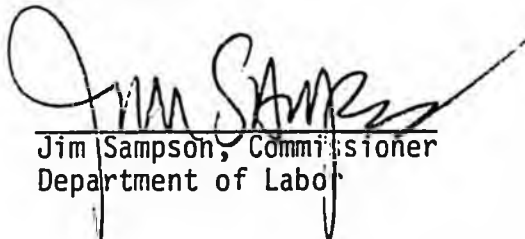
(B) the service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and

(C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed;

Examination of the employee/employer relationship in this regard is appropriate, and the Department supports the application of these criteria in making such determinations.

The exemption of taxicab operators from the independent contractor test, as appears to be proposed in this bill, is not in the interest of Alaska's workers, and the Department opposes it.

APPROVED:


Jim Sampson, Commissioner
Department of Labor

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: CSHB 195 (Transp)
Publish Date: _____

REQUEST: _____
Revision Date: _____
Title: "An Act excluding services provided by certain taxicab operators..."
Sponsor: House Transportation Committee
Requestor: House Labor and Commerce

Agency Affected: Labor
BRU: Employment Security
Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Sitton, Director *[Signature]* Phone: 465-2712
Division: Employment Security Date: 4/13/87

Approved by Commissioner: Jim Sampson *[Signature]* Date: 4/13/87
Agency: Labor

- Distribution (by preparer):**
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: HB 195
Publish Date: _____

REQUEST: _____

Revision Date: _____
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by certain taxicab operators..."
Sponsor: House Transportation Committee
Requestor: House Transportation Committee

Agency Affected: Labor
BRU: Employment Security

Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
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CAPITAL						
---------	--	--	--	--	--	--

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: JS Joe Sitton, Director Phone: 465-2712
Division: Employment Security Date: 4/3/87

Approved by Commissioner: JB Jim Sandson Date: 4/3/87
Agency: Labor

Distribution (by preparer):

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

Bill No. House Bill 195

Date April 3, 1987

Title "An Act excluding services provided by certain taxicab operators from the definition of employment for unemployment compensation coverage, etc."

Contact: Joe Sitton
465-2712

Eileen Plate
465-2700

House Bill 195 seeks to categorically exclude certain taxicab operators from the definition of employment for the purposes of unemployment insurance coverage.

The Department is puzzled as to the reason for the proposed exclusion since persons, including taxicab operators, who actually are performing as independent contractors, are presently excluded from unemployment insurance coverage under AS 23.20.525(a)(10). Under this current law, a person's status as an independent contractor is shown to exist if:

- (A) the individual has been and will continue to be free from control and direction in connection with the performance of the service, both under the individual's contract for the performance of service and in fact;
- (B) the service is performed either outside the usual course of the business for which the service is performed or is performed outside of all the places of business of the enterprise for which the service is performed; and
- (C) the individual is customarily engaged in an independently established trade, occupation, profession, or business of the same nature as that involved in the service performed;

Examination of the employee/employer relationship in this regard is appropriate, and the Department supports the application of these criteria in making such determinations.

The exemption of taxicab operators from the independent contractor test, as appears to be proposed in this bill, is not in the interest of Alaska's workers, and the Department opposes it.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

Dennis L. McCarty

Attorney at Law
308 Mary Frances Tower
320 Bawden Street
Ketchikan, Alaska 99901
(907) 225-2108

March 26, 1987

Honorable John Sund
Alaska State Representative
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 194
House Bill 195

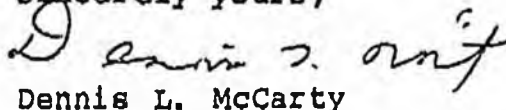
Dear Rep. Sund:

I represent two cab companies in Ketchikan who are very immediately affected by these proposed bills. In each instance there is a proposal to modify A.S. 23.20.526(a) to exempt from unemployment compensation coverage "(23) service performed as an independent contractor who operates a taxicab."

My clients and I greatly appreciate the attempt to allow the cab drivers to be dealt with as independent contractors, but we are concerned that this language may not meet the problem. Specifically, my clients are presently pursuing an appeal to the Superior Court from the determination of the Department of Labor that their cab drivers are not independent contractors. Unfortunately, it appears to me that this modification will not defeat the Department's attempt to make almost every employment within the state come with its definition of employee coverage pursuant to the provisions of the "ABC test" contained in A.S. 23.20.525.

Our specific concern with this legislation is that unless there is a definition of "independent contractor", the Employment Security Division will still interpret that phrase by the "ABC Test". Through my review of Alaska case law together with direct contact with the Department it is obvious that they take the position that it is nearly impossible for anyone to be independently employed. My clients strongly support the intent of these bills. They are concerned that unless care is used in drafting the exemption that nothing may be gained if the Department is free to use the "ABC Test" so broadly as to make it difficult or impossible to be an "independent contractor."

Sincerely yours,


Dennis L. McCarty

DLM:mh

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/20/87

FURTHER REFERRALS: Labor & Commerce

DATE: April 8, 1987

The Transportation Committee has considered HB 195

"An Act excluding services provided by certain taxicab operators from the definition of employment for unemployment compensation coverage; and providing for an effective date."

RECOMMENDS:

- replace with CSHB 195(Trsp) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis.

SIGNING DO PASS:

Richard Boucher

Mr. W. Miller

Bill Hudson

Bette Cate

SIGNING OTHER RECOMMENDATIONS:

Bette Cate

 Chairman's signature

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JUNEAU, ALASKA 99811
907-465-3800

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

H. Transportation April 8, 1987 1:30pm