

S B

146

Date referred: 5/14/87

DATE: 5/14/87

The Labor & Commerce Committee has considered CSSB 146 (Trsp)

"An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

RECOMMENDS:

- replace with HCSCS SB 146 (Trasp) 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 4/9/87
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

J. Ellis

Cliff Davidson

Steve Korman

David Douley

David Douley

Chairman's/signature

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly

P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Representative David Donley, Chairman
House Labor & Commerce Committee

FROM: Senator Lloyd Jones, Chairman *LJ*
Senate Transportation Committee

DATE: May 14, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Labor and Commerce Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

Original sponsor: Transportation Committee

1 IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 146 (Transportation)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to weights and measures; citation
7 authority of employees enforcing weights and measures
8 limitations; and providing for an effective date."

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

10 * Section 1. AS 45.75.050(b) is amended to read:

11 (b) The regulations may include

12 (1) standards of net weight, measure, or count, and reason-
13 able standards of fill, for a [ANY] commodity in package form;

14 (2) rules governing the technical and reporting procedures
15 to be followed, and the report and record forms and marks of approval
16 and rejection to be used by inspectors of weights and measures in the
17 discharge of their official duties;

18 (3) exemptions from the sealing or marking requirements of
19 AS 45.75.120 for [WITH RESPECT TO] weights and measures of a character
20 or size that sealing or marking would be inappropriate, impracticable,
21 or damaging to the apparatus in question; [AND]

22 (4) for [WITH RESPECT TO] classes of weights and measures
23 of a character that retesting is unnecessary to continued accuracy,
24 exemptions from the requirements of AS 45.75.070 and 45.75.080 for
25 testing, and schedules fixing the frequency of required retests for
26 classes of devices exempted; and

27 (5) in the implementation of AS 44.33.020(25), provisions
28 governing the size, weight, and load limitations established under
29 AS 19.10.060; the issuance of permits for overweight and oversize

1 vehicles; and the operation of weigh stations.

2 * Sec. 2. AS 45.75 is amended by adding new sections to read:

3 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
4 an employee of the Department of Commerce and Economic Development who
5 is authorized by the commissioner of commerce and economic development
6 to enforce the size, weight, and load limitations adopted by the
7 Department of Transportation and Public Facilities under AS 19.10.060
8 may issue a citation to a person who violates

9 (1) a weight, size, or load limitation;

10 (2) the terms of an overweight or oversize vehicle permit
11 issued under AS 44.33.020(25); or

12 (3) a regulation adopted under AS 28.05.011(2) or under
13 AS 44.33.020(25) and AS 45.75.050(b)(5).

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

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

20 (d) The commissioner of public safety is responsible for the
21 issuance of books containing appropriate citations and shall maintain
22 a record of each book and each citation contained in it. The commis-
23 sioner of public safety shall require and retain a receipt for every
24 book issued to an employee of the Department of Commerce and Economic
25 Development designated by the commissioner of commerce and economic
26 development to provide investigative services to enforce provisions of
27 this chapter.

28 (e) A peace officer or an employee who issues a citation under
29 this section shall deposit the original or a copy of the citation with

1 a court having jurisdiction over the alleged offense. Upon its
2 deposit with the court, the citation may be disposed of only by trial
3 in the court or other official action taken by the magistrate, judge,
4 or prosecutor. The peace officer or employee who issued the citation
5 may not dispose of it or copies of it or of the record of its issuance
6 except as required under this subsection and (f) of this section.

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

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

20 (h) Unless the citation has been voided or otherwise dismissed
21 by the magistrate, judge, or prosecutor, or bail has been forfeited
22 under AS 45.75.133, a person who fails to appear in court to answer a
23 citation issued under this section, regardless of the disposition of
24 the charge for which the citation was issued, is guilty of a class B
25 misdemeanor.

26 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
27 specify by rule or order those violations that are appropriate for
28 disposition without court appearance, and shall establish a schedule
29 of bail amounts. The maximum bail forfeiture amount for an offense

1 may not exceed the maximum fine specified by law for that offense. If
2 the person who has been cited can dispose of the violation without
3 court appearance, the issuing peace officer or employee shall write on
4 the citation the amount of bail forfeiture applicable to the viola-
5 tion.

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

10 (1) the amount of bail indicated on the citation for that
11 offense; and

12 (2) a copy of the citation indicating that the right to an
13 appearance is waived, a plea of no contest is entered and the bail is
14 forfeited.

15 (c) When the cited person has forfeited bail under (b) of this
16 section, the court shall enter a judgment of conviction. Forfeiture
17 of bail is a complete satisfaction for the violation. The clerk of
18 the court accepting the bail forfeiture shall provide the offender
19 with a receipt stating that fact.

20 (d) A cited person who fails to pay the bail forfeiture amount
21 established under (a) of this section or to appear in court as re-
22 quired, is guilty of a class B misdemeanor.

23 (e) Notwithstanding other provisions of law, if a person cited
24 for a violation for which a bail forfeiture amount has been estab-
25 lished under (a) of this section appears in court and is found guilty,
26 the court may not impose a penalty that exceeds the bail forfeiture
27 amount for that offense established under (a) of this section.

28 * Sec. 3. AS 45.75.380 is amended to read:

29 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a

1 violation subject to the penalty specified in AS 12.55.035(b)(5) if
2 the person does one or more of the following acts [WHO, PERSONALLY OR
3 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
4 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
5 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
6 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
7 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
8 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
9 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

10 (1) uses or has in possession for the purpose of using for
11 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
12 or exposes for sale, or hire, or has in possession for the purpose of
13 selling or hiring, an incorrect weight or measure or a device or
14 instrument used to or calculated to falsify a weight or measure;

15 (2) uses or has in possession for current use, in buying or
16 selling a commodity or thing, or for hire or award, or in the computa-
17 tion of a basic charge or payment for services rendered on the basis
18 of weight or measurement, or in the determination of weight or mea-
19 surement when a charge is made for determination, a weight or measure
20 that has not been tested and sealed by the appropriate authority
21 within one year, [(A)] unless

22 (A) the person gives written notice [IS GIVEN] to the
23 appropriate authority to the effect that the weight or measure is
24 available for examination, or is due for reexamination [RE-EXAMI-
25 NATION], as the case may be; [,]

26 (B) the person receives [UNLESS] specific written
27 permission to use the weight or measure [IS RECEIVED] from the
28 appropriate authority; [,] or

29 (C) [UNLESS] the weight or measure is exempt from

1 sealing or annual testing requirements by AS 45.75.080 or by a
2 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

3 (3) disposes of a rejected or condemned weight or measure
4 in a manner contrary to law or regulation;

5 (4) removes from a weight or measure, contrary to law or
6 regulation, a tag, seal, or mark placed on it by the appropriate
7 authority;

8 (5) sells or [,] offers [OR EXPOSES] for sale less than the
9 quantity the person represents of a commodity, thing, or service;

10 (6) takes more than the quantity the person represents of a
11 commodity, thing, or service when, as buyer, the person furnished the
12 weight or measure that the seller used to determine [BY MEANS OF
13 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];

14 (7) keeps for the purpose of sale, advertises, or offers
15 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
16 condition or manner contrary to law or regulation;

17 (8) uses in retail trade, except in the preparation of
18 packages put up in advance of sale and of medical prescriptions, a
19 weight or measure that is not so positioned that a customer may accu-
20 rately read, from a position that may reasonably be assumed by a
21 customer, its indications [MAY BE ACCURATELY READ] and observe the
22 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
23 REASONABLY BE ASSUMED BY A CUSTOMER];

24 (9) hinders or obstructs the director, an inspector, a
25 sealer, or a deputy sealer in the performance of official duties under
26 this chapter;

27 (10) violates a provision of an overweight or oversize
28 vehicle permit issued under AS 44.33.020(25);

29 (11) violates a weight, load, or size limitation established

1 under AS 19.10.060 or a regulation adopted under AS 19.05.020,
2 AS 44.33.020(25), or AS 45.75.050(b)(5);

3 (12) violates a provision of this chapter or [OF] a regula-
4 tion adopted under this chapter for which a specific penalty is not
5 prescribed.

6 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:

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

12 * Sec. 5. AS 28.40.050(e) and AS 45.75.360 are repealed.

13 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

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

REQUEST: _____

Bill Version: CS SB 146 LHC
Publish Date: 4-9-87

Revision Date: _____
Title: Act relating to Weights and Measures

Agency Affected: Commerce & Econ. Dev.
BRU: Consumer Protection

Sponsor: Senate Transportation
Requestor: _____

Components: Measurement Standards

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 | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

| | | | | | | |
|-----------|-----|-----|-----|-----|-----|-----|
| FULL-TIME | -0- | -0- | -0- | -0- | -0- | -0- |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Swanson, Director Phone: 345-7750
Division: Measurement Standards Date: March 9, 1987

Approved by Commissioner: J. Anthony Smith, Commissioner Date: March 9, 1987
Agency: Department of Commerce and Economic Development

Distribution (by preparer):
Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary
0190k3987b

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE SENATE

BILL VERSION: CSSB 146(L&C) b
PUBLISH DATE: 4/9/87

REQUEST
Revision Date: _____
Title: "An Act relating to weights
and measures."
Sponsor: Transportation Committee
Requestor: Senate Labor & Commerce

Agency Affected: Public Safety
BRU: Alaska State Troopers
Components: Detachments & CIB

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 |
| CAPITAL | | | | | | |
| REVENUE | | | | | | |

FUNDING: (Thousands of Dollars)

| | | | | | | |
|---------------|--|---|---|---|---|---|
| GENERAL FUNDS | | 0 | 0 | 0 | 0 | 0 |
| FEDERAL FUNDS | | | | | | |
| OTHER | | | | | | |
| TOTAL | | | | | | |

POSITIONS:

| | | | | | | |
|-----------|--|---|---|---|---|---|
| FULL-TIME | | 0 | 0 | 0 | 0 | 0 |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS:

No fiscal impact is anticipated.

Prepared by: Francis C. Allan
Division: Alaska State Troopers

Phone: 269-5691
Date: 4/15/87

Approved by Commissioner: _____
Agency: Public Safety

Date: 4/15/87

Distribution (by preparer):

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

JMA
4/16/87



Dept. of Transportation & Public Facilities

POSITION PAPER

BILL NO: CSSB 146 (Transportation)
TITLE: An Act Relating to Weight and Measures
and Providing for an Effective Date

APPROVED:  Mark S. Hickey
Commissioner

DATE: 4/29/87

The department supports SB 146.

This legislation provides statutory authority for the Departments of Commerce and Economic Development and Public Safety for enforcement of vehicle size, weight and load limitations. It also provides for penalties for those who violate either the provisions of an oversize or overweight vehicle permit or the legal size, weight and load limitations adopted under Alaska Statutes.

The legislation is needed since without it there is no legal mechanism for enforcement of penalties for violations of existing vehicle size and weight regulations. States that do not provide adequate enforcement for oversize and overweight vehicles may be subject to a reduction of ten percent of the State's federal highway apportionment.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1987

SUBJECT: Sectional analysis - CSSB 146(Transportation)
TO: Senator Lloyd Jones
FROM: Michael F. Ford *M. F.*
Legislative Counsel

The following is a sectional analysis of CSSB 146(Trsp):

Section 1 - Expands the authority of the commissioner of the Department of Commerce and Economic Development to adopt regulations.

Section 2 - Creates authority for the issuance of a citation for a violation of weight, size, or load limits; overweight or oversize permits; and for vehicle equipment violations. Establishes procedures for issuance and for response to a citation. Requires the Supreme Court to establish a bail schedule and a procedure for bail forfeiture for certain violations.

Section 3 - Establishes a penalty for certain offenses. Adds violations established under AS 45.75.050(b)(5) as offenses subject to the penalty established in this section.

Section 4 - Establishes a penalty for overweight vehicles. This penalty presently exists as AS 28.40.050(e) and is being moved to add this penalty as a part of AS 45.75.380.

Section 5 - Definition.

Section 6 - Repealers.

Section 7 - Effective date.

MFF:mkr
m11/131

ALASKA STATE LEGISLATURE

Sen. Lloyd Jones, Chairman
Sen. John B. "Jack" Coghill, Vice Chairman
Sen. Mitch Abood
Sen. Bettye Fahrenkamp
Sen. Tim Kelly



P.O. Box V
Juneau, AK 99811

907-465-4921

Senate Transportation Committee

MEMORANDUM

TO: Representative Bette Cato, Chairman
House Transportation Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee

DATE: May 12, 1987

SUBJECT: CS for SB 146 (Trsp), An Act relating to weights and measures.

The Senate Transportation Committee introduced this measure so the state would have the necessary legal mechanism to protect our highways from damage. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

In 1982, when the enforcement of weights and measures was transferred from the Department of Public Safety to the Department of Commerce; the penalty provisions were not transferred to commerce. During the past five years, the Department of Commerce has issued citations. However, the Alaska Supreme Court has dropped the bail forfeiture from the bail schedule because of no statutory authority.

The status quo is not in the state or industry's best interest. In Fairbanks a mandatory court appearance is necessary. This causes needless delays of truckers and overtime problems for the Department of Commerce. In Anchorage the situation is even worse, the courts are not enforcing the citations.

This bill would provide the necessary level of vehicle size, weight, and overload limitation enforcement. It provides penalties for violators of oversized or overweight vehicle permits or the legal weight, and load limitations adopted under Alaska Statutes.

I encourage the House Transportation Committee to approve this measure so there will be adequate protection of our highways in the immediate future, and to ensure we do not place our federal highway funds at risk.

HOUSE COMMITTEE REPORT

(7)

Date referred: 5/12/87

FURTHER REFERRALS: Labor & Commerce
Judiciary

DATE: May 13, 1987

The Transportation Committee has considered CSSB 146(Trsp)

"An Act relating to weights and measures; citation authority of employees enforcing weights and measures limitations; and providing for an effective date."

RECOMMENDS:

- replace with HCS CSSB 146(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 4/9/87 & 4/9/87
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Bette Crato
Chairman's signature