

SB

1446

SENATE COMMITTEE REPORT

FURTHER:

4/24/87

DATE TURNED INTO OFFICE 5/8/87

Mr. President:

FINANCE Committee considered SB 146

weights and measures; cfd.

and recommended:

replace with CS FOR _____) same title
 or adopt _____ CS FOR SB 146 (Draft)) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted _____

Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

[Handwritten signatures: Gene B. ...]

[Handwritten signature: ...] Do Pass
Chairman signature and recommendation

Committee Backup Attached

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: CSSB 146(Trsp)

Publish Date: _____

REQUEST _____

Revision Date: _____

Agency Affected: Public Safety

Title: "An Act relating to weights and measures."

BRU: Alaska State Troopers

Sponsor: Transportation Committee

Components: Detachments & CIB

Requestor: Senate Finance

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: (Attach a separate page if necessary)

No fiscal impact is anticipated.

JML
5/4/87

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

Phone: 269-5691
Date: 4/27/87

Approved by Commissioner: *[Signature]*
Agency: Public Safety

Date: 5/4/87

Distribution (by preparer):

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

RECEIVED
MAY 05 1987

page ___ of ___

Original sponsor: Transportation Committee

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE
2 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 to enforce the size, weight, and
6 load limitations adopted by the Department of Transportation and
7 Public Facilities under AS 19.10.060 may issue a citation to a person
8 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 is responsible for the issuance of books
21 containing appropriate citations and shall maintain a record of each
22 book and each citation contained in it. The commissioner shall re-
23 quire and retain a receipt for every book issued to an employee of the
24 Department of Commerce and Economic Development designated by the
25 commissioner to provide investigative service to enforce provisions of
26 this chapter.

27 (e) A peace officer or an employee who issues a citation under
28 this section shall deposit the original or a copy of the citation with
29 a court having jurisdiction over the alleged offense. Upon its

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

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

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

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

25 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
26 specify by rule or order those violations that are appropriate for
27 disposition without court appearance, and shall establish a schedule
28 of bail amounts. The maximum bail forfeiture amount for an offense
29 may not exceed the maximum fine specified by law for that offense. If

1 the person who has been cited can dispose of the violation without
2 court appearance, the issuing peace officer or employee shall write on
3 the citation the amount of bail forfeiture applicable to the viola-
4 tion.

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

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

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

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

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

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

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

28 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
29 violation subject to the penalty specified in AS 12.55.035(b)(5) if

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

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

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

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

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

28 (C) [UNLESS] the weight or measure is exempt from
29 sealing or annual testing requirements by AS 45.75.080 or by a

- 1 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;
- 2 (3) dispces of a rejected or condemned weight or measure
3 in a manner contrary to law or regulation;
- 4 (4) removes from a weight or measure, contrary to law or
5 regulation, a tag, seal, or mark placed on it by the appropriate
6 authority;
- 7 (5) sells or [,] offers [OR EXPOSES] for sale less than the
8 quantity the person represents of a commodity, thing, or service;
- 9 (6) takes more than the quantity the person represents of a
10 commodity, thing, or service when, as buyer, the person furnished the
11 weight or measure that the seller used to determine [BY MEANS OF
12 WHICH] the amount of the commodity, thing, or service [IS DETERMINED];
- 13 (7) keeps for the purpose of sale, advertises, or offers
14 [OR EXPOSES] for sale, or sells a commodity, thing, or service in a
15 condition or manner contrary to law or regulation;
- 16 (8) uses in retail trade, except in the preparation of
17 packages put up in advance of sale and of medical prescriptions, a
18 weight or measure that is not so positioned that a customer may accu-
19 rately read, from a position that may reasonably be assumed by a
20 customer, its indications [MAY BE ACCURATELY READ] and observe the
21 weighing or measuring operation [OBSERVED FROM SOME POSITION WHICH MAY
22 REASONABLY BE ASSUMED BY A CUSTOMER];
- 23 (9) hinders or obstructs the director, an inspector, a
24 sealer, or a deputy sealer in the performance of official duties under
25 this chapter;
- 26 (10) violates a provision of an overweight or oversize
27 vehicle permit issued under AS 44.33.020(25);
- 28 (11) violates a weight, load, or size limitation established
29 under AS 19.10.060 or a regulation adopted under AS 19.05.020,

1 AS 44.33.020(25), or AS 45.75.050(b)(5);

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

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

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

11 * Sec. 5. AS 45.75.390 is amended by adding a new paragraph to read:

12 (14) "commissioner" means the commissioner of commerce and
13 economic development.

14 * Sec. 6. AS 28.40.050(e) and AS 45.75.360 are repealed.

15 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version : CS SB 146 (LH)
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

RECEIVED
MAR 10 1987

LEGISLATIVE FINANCE

SB 146

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: Senate Finance Committee

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee 

DATE: May 7, 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 during spring breakup. In addition, without adequate enforcement standards the state of Alaska is in jeopardy of losing ten percent of the State's federal highway apportionment.

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.

In summary, I encourage the Senate Finance Committee's immediate action on 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.



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:

MSH
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.

Rec'd 5/14/87
Mark Hill e/s



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: *MSA* Mark S. Hickey
Commissioner

DATE: 5/7/87

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. Federal regulations, 23 CFR 657.19 "Effect of failure to certify or enforce state laws adequately", state

Beginning January 1, 1981, if a State fails to certify as required by this regulation or if the Secretary determines that a State is not adequately enforcing all State laws respecting maximum vehicle sizes and weights on FA highways notwithstanding the State's certification the FA highway funds apportioned to the state for the next fiscal year shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the state under 23 U.S.C. 104, and/or by the amount required pursuant to 23 U.S.C. 127.

Currently the State of Alaska receives \$150 million annually in federal highway funds. Therefore, \$15 million annually could be at risk unless this legislation passes.

RECEIVED
MAY 14 1987

LEGISLATIVE FINANCE



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: *MSH* 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.



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SB 146

APPROVED: Mark Hickey *M.H.*
Commissioner

TITLE: An Act Relating to Weight and Measures and
Providing for an Effective Date

DATE: 3/9/87

The proposed legislation provides statutory authority for the Department of Commerce and Economic Development 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.

SB 146

RECEIVED
MAR 17 1987

LEGISLATIVE FINANCE

For further information call Susan Fleischhauer at 465-3900.

SENATE COMMITTEE REPORT

FURTHER: FINANCE

DATE TURNED INTO OFFICE April 23, 1987

Mr. President:

TRANSPORTATION Committee considered SB 146

weights and measures; efd.

and recommended:

replace with CS FOR SB146 Trsp) same title
 or adopt _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

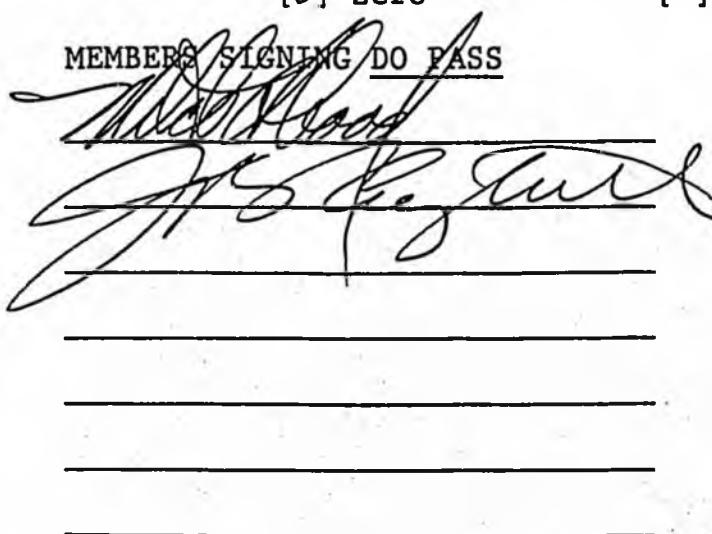
letter of intent adopted _____

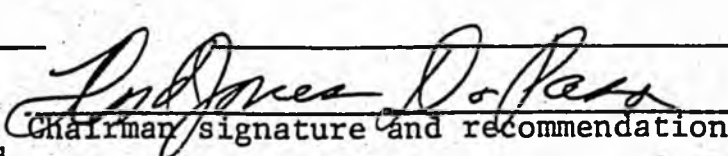
Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS




Chairman signature and recommendation

Committee Backup Attached

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 3-5-87 5-DAY NOTICE
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER: TRANSPORTATION
FINANCE

**FISCAL NOTE(S) ATTACHED **
IN ACCORDANCE WITH AS 24.08.035
(see below)

2/27/87

DATE TURNED INTO OFFICE _____

Mr. President:

LABOR & COMMERCE

Committee considered SB 146

~~relating to~~ weights and measures; efd.

and recommended:

replace with CS SB 146 (L+L) same title
 attached amendment(s) and new title

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

letter of intent adopted and attached

** Committee attached or adopted fiscal note(s)
2 zero ~~impact~~ fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Mike Sander
Subcommittee

John Kelly (NO Rec)

Tim Kelly - Do Pass
Chairman signature and recommendation

Committee Backup Attached

Original sponsor: Transportation Committee

1 IN THE SENATE
2
3 CS FOR SENATE BILL NO. 146 (L&C)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FIFTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act relating to weights and measures; and provid-
8 ing 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;
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
vehicles; and the operation of weigh stations.

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

2 Sec. 45.75.131. ISSUANCE OF CITATIONS. (a) A peace officer or
3 an employee of the Department of Commerce and Economic Development who
4 is authorized by the commissioner of public safety to enforce the
5 size, weight, and load limitations adopted by the Department of Trans-
6 portation and Public Facilities under AS 19.10.060 may issue a cita-
7 tion to a person who violates

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

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

11 (3) a regulation adopted under AS 44.33.020(25) and AS 45.-
12 75.050(b)(5).

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

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

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

26 (e) A peace officer or an employee who issues a citation under
27 this section shall deposit the original or a copy of the citation with
28 a court having jurisdiction over the alleged offense. Upon its de-
29 posit with the court, the citation may be disposed of only by trial in

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

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

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

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

24 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
25 specify by rule or order those violations that are appropriate for
26 disposition without court appearance, and shall establish a schedule
27 of bail amounts. The maximum bail forfeiture amount for an offense
28 may not exceed the maximum fine specified by law for that offense. If
29 the person who has been cited can dispose of the violation without

1 court appearance, the issuing peace officer or employee shall write on
2 the citation the amount of bail forfeiture applicable to the viola-
3 tion.

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

8 (1) the amount of bail indicated on the citation for that
9 offense; and

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

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

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

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

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

27 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
28 violation subject to the penalty specified in AS 12.55.035(b)(5) if
29 the person does one or more of the following acts [WHO, PERSONALLY OR

1 BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF ANOTHER, PER-
2 FORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A MISDEMEANOR AND
3 UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE BY A FINE OF
4 NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT FOR NOT MORE
5 THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSEQUENT CONVIC-
6 TION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN \$50 NOR MORE
7 THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BY BOTH]:

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

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

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

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

27 (C) [UNLESS] the weight or measure is exempt from
28 sealing or annual testing requirements by AS 45.75.080 or by a
29 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

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

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

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

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

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

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

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

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

27 (11) violates a weight, load, or size limitation established
28 under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.-
29 33.020(25), or AS 45.75.050(b)(5);

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

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

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

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

11 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

1 IN THE SENATE BY THE TRANSPORTATION COMMITTEE

2 SENATE BILL NO. 146

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; and provid-
7 ing for an effective date."

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

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

10 (b) The regulations may include

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

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

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

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

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

1 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. An employee of the
4 Department of Commerce and Economic Development who is authorized by
5 the commissioner to enforce the size, weight, and load limitations
6 adopted by the Department of Transportation and Public Facilities
7 under AS 19.10.060 may issue a citation to a person who violates

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

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

11 (3) a regulation adopted under AS 44.33.020(25) and AS 45.-
12 75.050(b)(5).

13 Sec. 45.75.132. FORM AND ISSUANCE OF CITATION. (a) A citation
14 issued under this section must be in writing. A person receiving the
15 citation is not required to sign a promise to appear in court.

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

19 (c) The commissioner is responsible for the issuance of books
20 containing appropriate citations and shall maintain a record of each
21 book and each citation contained in it. The commissioner shall re-
22 quire and retain a receipt for every book issued to an employee of the
23 department designated by the commissioner to provide investigative
24 service to enforce provisions of this chapter.

25 (d) An employee who issues a citation under this section shall
26 deposit the original or a copy of the citation with a court having
27 jurisdiction over the alleged offense. Upon its deposit with the
28 court, the citation may be disposed of only by trial in the court or
29 other official action taken by the magistrate, judge, or prosecutor.

1 The employee who issued the citation may not dispose of it or copies
2 of it or of the record of its issuance except as required under this
3 subsection and (e) of this section.

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

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

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

23 Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall
24 specify by rule or order those violations that are appropriate for
25 disposition without court appearance, and shall establish a schedule
26 of bail amounts. The maximum bail forfeiture amount for an offense
27 may not exceed the maximum fine specified by law for that offense. If
28 the person who has been cited can dispose of the violation without
29 court appearance, the issuing employee shall write on the citation the

1 amount of bail forfeiture applicable to the violation.

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

6 (1) the amount of bail indicated on the citation for that
7 offense; and

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

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

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

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

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

25 Sec. 45.75.380. OFFENSES AND PENALTIES. A person commits a
26 violation subject to the penalty specified in AS 12.55.035(b)(5) if
27 the person does one or more of the following acts [A PERSON WHO,
28 PERSONALLY OR BY A SERVANT, OR AGENT, OR AS THE SERVANT OR AGENT OF
29 ANOTHER, PERFORMS ANY ONE OF THE FOLLOWING ACTS IS GUILTY OF A

1 MISDEMEANOR AND UPON A FIRST CONVICTION OF THE VIOLATION IS PUNISHABLE
2 BY A FINE OF NOT LESS THAN \$20 NOR MORE THAN \$200, OR BY IMPRISONMENT
3 FOR NOT MORE THAN THREE MONTHS, OR BY BOTH. UPON A SECOND OR SUBSE-
4 QUENT CONVICTION, THE PERSON IS PUNISHABLE BY A FINE OF NOT LESS THAN
5 \$50 NOR MORE THAN \$500, OR BY IMPRISONMENT FOR NOT MORE THAN ONE YEAR,
6 OR BY BOTH]:

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

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

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

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

26 (C) [UNLESS] the weight or measure is exempt from
27 sealing or annual testing requirements by AS 45.75.080 or by a
28 regulation adopted [OF THE DIRECTOR ISSUED] under AS 45.75.050;

29 (3) disposes of a rejected or condemned weight or measure

1 in a manner contrary to law or regulation;

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

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

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

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

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

21 (9) hinders or obstructs the director, an inspector, a
22 sealer, or a deputy sealer in the performance of official duties under
23 this chapter;

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

26 (11) violates a weight, load, or size limitation established
27 under AS 19.10.060 or a regulation adopted under AS 19.05.020, AS 44.-
28 33.020(25), or AS 45.75.050(b)(5);

29 (12) violates a provision of this chapter or [OF] a

1 regulation adopted under this chapter for which a specific penalty is
2 not prescribed.

3 * Sec. 4. AS 45.75.380 is amended by adding a new subsection to read:
4 (b) Notwithstanding the maximum fine for a violation provided
5 under (a) of this section, the director shall impose on a person who
6 violates a regulation or special permit governing the weight limit of
7 a motor vehicle a maximum penalty of \$.05 for each pound of weight
8 over the authorized weight limit for the vehicle.

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

10 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).