

SB

146



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:

M&H
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.

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: All Members of the Senate

FROM: Senator Lloyd Jones, Chairman
Senate Transportation Committee 

DATE: May 11, 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.

Similar legislation has passed the Senate previously and died in the House. I encourage the Senate'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: *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.

BILL NO:

CSSB 146(Trsp)

DATE:

4/27/87

TITLE:

"An Act relating to weights and measures; and providing for an effective date."

CONTACT:

James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

The Division of Alaska State Troopers supports this legislation.


Arthur English
Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

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

Bill Version: CSSB 146(Trsp)
Publish Date: _____
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: (Attach a separate page if necessary)

No fiscal impact is anticipated.

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

JML
5/1/87

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 *LJ*

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.

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.

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.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99801
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 Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
STAFF COUNSEL

303 K Street
Anchorage, Alaska 99501

(907) 264-8228

April 28, 1987

Joe Swanson
Director
Division of Measure Standards
Department of Commerce and Economic
Development
P. O. Box 111686
Anchorage, Alaska 99511

Dear Mr. Swanson:

Thank you for your letter of April 27, 1987. In response, it is the view of the court system that the appropriate way to resolve the issues you raise is to either (1) obtain an attorney general's opinion stating that AS 28.40.050 is a legally sound basis for enforcing weight violations, or (2) request the legislature to establish a clear basis for enforcement by adding a penalty for the 17AAC 25 regulation to Title 19 of the statutes.

It may be helpful to review the background of this matter from the court system's viewpoint. Prior to recent supreme court action, the statewide traffic bail schedule had not been revised since 1979. Both the bail forfeiture amounts and many of the offenses appeared to be out of date. One such offense was overweight violations, which had been listed on the bail schedule under the authority of 17 AAC 25.060, with a bail amount of five cents a pound. In April 1985 Joseph Balfe, Assistant Attorney General for Law Enforcement, concluded in response to a court system inquiry that regulations in 17 AAC do not fall under any public safety regulation under Title 28. He questioned whether any 17 AAC regulation is enforceable since AS 19.45.002 does not provide a penalty for violation of these regulations. The court system sought confirmation of this position from Commissioner Sundberg in July 1985, indicating that the court system proposed to eliminate all regulations under 17 AAC from the bail schedule, and asking if this approach created a problem or if the department wished to take a different approach to these offenses. Colonel Kolivosky responded for the department on August 7, 1985, and stated that "at this time it is still appropriate to eliminate the Traffic Bail Forfeiture Schedule under 17 AAC from the update."

Joe Swanson
April 28, 1987
Page Two

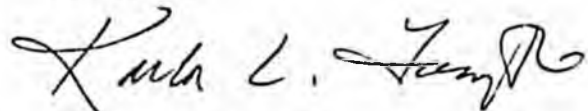
Although it could be argued that AS 28.40.050(e) provides a sufficient basis for enforcement, this particular statute has never appeared on the bail schedule as the authority for an overweight offense. There are strong arguments against viewing this section as authority for overweight penalties, given language in paragraphs (a) - (d) of AS 28.40.050, which refer to regulations adopted under Title 28. However, if the Department of Law takes the position that AS 28.40.050(e) provides adequate authority for enforcing overweight violations, the supreme court will give serious consideration to placing this offense on the bail schedule.

If the Department of Law does not believe that this provision contains adequate authority, the remaining way to resolve this matter is through legislation. As you know, the court system has brought this concern to the attention of the chairs of the Judiciary Committees in both the House and the Senate. With regard to Judge Stewart's administrative determination that the Anchorage court will no longer accept citations, I have spoken with Judge Stewart, and he has agreed that these citations may be filed with the court and money held in escrow until an attorney general's opinion is forthcoming on this issue.

As you point out, a decision that AS 28.40.050(e) does not provide sufficient authority for enforcement may have significant consequences. However, a determination about the legal authority to continue overweight enforcement under the provisions of AS 28 properly comes from the Department of Law or from the Legislature.

I hope this response is helpful. Please let me know if I can answer any questions.

Sincerely,



Karla L. Forsythe
Staff Counsel

KLF:bs

cc: Arthur H. Snowden, II Administrative Director
Susan Miller, Manager, Special Projects
Presiding Judges
Judge Dave Stewart
Judge Glen C. Anderson
Judge Natalie Finn
Magistrate Skip Slater
Magistrate Roy Williams
Sandy Ganong, Traffic
Robert G. Fisher, Fiscal Officer
Grace B. Schaible, Attorney General
Dean Cuaneli, Assistant Attorney General
William Ni, Acting Public Safety Commissioner

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF MEASUREMENT STANDARDS

STEVE COWPER, GOVERNOR

P.O. BOX 111886
ANCHORAGE, ALASKA 99511
PHONE: (907)345-7750

April 27, 1987

Carla Forsythe, Staff Counsel
Alaska Court System
303 K Street
Anchorage, Alaska 99501

Dear Ms. Forsythe:

CSHB 586(FIN), effective July 1, 1982, transferred the operation of the motor vehicle weighing stations and the issuance of special permits authorizing the operation of overweight and oversize vehicles from the Department of Public Safety to the Department of Commerce and Economic Development.

We assumed that the authority existed for us to write citations for overweight violations (AS 28.40.050 (e) and size and permit violations under the same general authority. When we began the process to promulgate regulations for our new programs, we were informed that there were no sanctions for size and permit violations and that there was a question whether we in Commerce and Economic Development could use the Public Safety statute as our authority for the issuance of overweight citations.

Based on this information, we discontinued writing citations for size and permit violations and we continued to write citations for overweight, based on the Public Safety statute referring to a five cent per pound penalty.

In 1984, a piece of legislation was introduced into the Senate to correct this problem. The bill was passed out of the Senate late in the session and died in the house in 1985. In 1986, SB82 was introduced into the house to again correct this problem. SB82 was passed out of the Senate late in the session and was taken up by the House in 1986 and subsequently died again. In 1987, SB146 was introduced into the Senate, which should be scheduled for a floor vote very soon. A companion bill HB271 has been introduced in the House and referred to House transportation, where it should be heard soon.

In 1984, we had a discussion with, then Assistant Attorney General, Joe Balfe, who determined that the Alaska State Troopers had no authority to write citations for size or permit violations, due to the lack of sanction authority in Public Safety's statute and in Department of Transportation and Public Facility's statute. Joe Balfe subsequently wrote a memorandum confirming that determination, however, there was no discussion of the potential problem with overweight citations.

Carla Forsythe, Staff Counsel
April 27, 1987
Page 2

Approximately, January 1, 1987, the Alaska Supreme Court, in the process of developing an updated bail schedule, determined that there was no authority for the troopers or ourselves to write citations for overweight and therefore, did not include this item in the bail schedule.

The traffic court then informed us that they would not process our citations, however, they would accept them and hold any money collected in an escrow account until a final decision was made.

We have continued to write overweight citations pending this final decision.

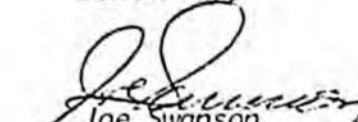
On Wednesday, April 22, 1987, we were informed by telephone that presiding District Judge Stewart had declared that all overweight citations written since January 1, 1987 were illegal and that we were not to file citations nor was the court to accept them and that the money held in escrow was to be deposited in the general fund.

We have a real problem, in that if, in fact, our citations and our enforcement actions are not legal, then we should close our weigh stations, rather than participate in an illegal activity. The closure of our weigh stations would create near chaos in the transportation industry, since there will be no size and weight enforcement. Further, we are advised by the Federal Highway Administration that closure of the weigh stations may very likely result in the loss of nearly \$15 million in Federal Highway Administration funding for our road system.

As mentioned before, there is legislation pending in both the House and the Senate to correct this problem, however, there are no guarantees that the legislation will pass.

We need a decision from the court system now, lest we jeopardize the integrity of our program, the credibility of our actions, \$15 million in highway funds, our own employees and the motoring public.

Sincerely,



Joe Swanson
Director

JS:cs/D.1.

4/28/87

Commentary On Proposed Bill
Providing Penalties For Violation
Of Vehicle Weight, Size And Load Regulations.

Section 1 of the proposed bill adds two new paragraphs to the general penalty statute for Title 19, AS 19.45.002. This penalty statute currently provides a penalty for violation of the statutes in Chapters 5-25 of Title 19, but does not provide a penalty for any of the regulations adopted under the authority of these statutes. The lack of such a penalty makes it questionable whether these regulations are enforceable. The specific regulations currently in question are the 17 AAC 25 regulations establishing limitations on weight, size and load of vehicles. These regulations were adopted under the authority of AS 19.10.060.

New paragraph (b) solves this problem by adding a specific penalty for violations of vehicle weight, size and load regulations. The penalty for a "violation" specified in AS 12.55.035(b)(5) is a fine of no more than \$300. A "violation" is the most minor type of offense in our criminal code. It does not require proof of a culpable mental state. AS 11.81.600. Under AS 11.81.900(b)(56), a "violation" is a non-criminal offense punishable only by a fine, but not by imprisonment or other penalty; conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime; and a person charged with a violation is not entitled to a trial by jury or to have a public defender or other counsel appointed at public expense to represent the person.

New paragraph (c) limits the penalty for overweight vehicles to \$.05 per pound of weight over the authorized limit. This paragraph repeats almost verbatim the provisions presently found in AS 28.40.050(e). The reason for moving this paragraph from AS 28.40.050 to AS 19.45.002 is that Title 28 is not an appropriate place for such a penalty limitation since (1) the overweight vehicle regulation is not promulgated under the authority of Title 28 and (2) the Department of Public Safety is no longer involved in the enforcement of these regulations. (See sec. 3, ch 77, SLA 1982.) Presumably the penalty for an overweight vehicle could exceed the \$300 maximum established in paragraph (b) only if the vehicle exceeds a weight limit by more than 6,000 pounds. It should be noted that the \$.05 per pound penalty has been in effect for over ten years. In that time period the penalties for other vehicle and traffic offenses have doubled (as shown by changes in the bail amounts listed on the traffic bail forfeiture schedule which the supreme court is required by AS 28.05.151 to promulgate). The legislature, therefore, may want to consider raising the \$.05 limit.

Section 2 of the proposed bill repeals AS 28.40.050(e) because this sub-paragraph has been moved to AS 19.45.002 as described above.

For an Act entitled: "An Act relating to penalties for vehicle weight, size and load regulations; and providing for an effective date."

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

Section 1. AS 19.45.002 is amended to read:

Sec. 19.45.002. Penalties. (a) A person who violates any provision of chs. 5-25 of this title is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$10 nor more than \$500, or by imprisonment in jail for a period not to exceed one year, or by both.

(b) A person who violates a regulation adopted under this title establishing limitations on weight, size and load of vehicles is guilty of a violation and is subject to the penalty specified in AS 12.55.035(b)(5).

(c) Notwithstanding the maximum fine provided for violations under (b) of this section, for the violation of regulations or special permits issued governing vehicle weight limits, overweight penalties shall be imposed at the rate of five cents for each pound of weight over the authorized weight limit for that vehicle.

Sec. 2. AS 28.40.050(e) is repealed.

Sec. 3. This Act takes effect immediately under AS 01.10.070.

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).
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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

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 Tresp) same title
 or adopt _____ CS FOR _____) new title

attached amendment(s) and

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

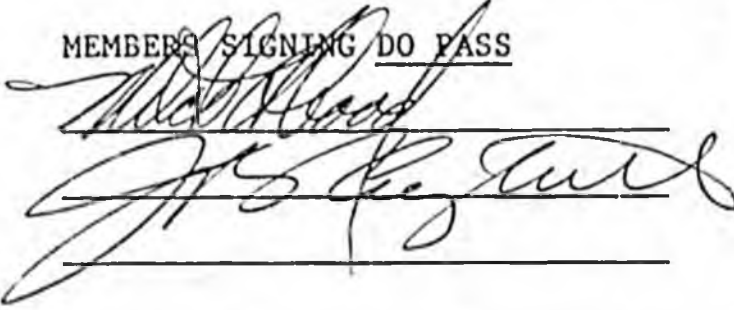
letter of intent adopted _____

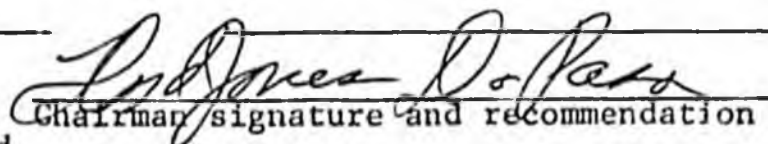
Committee attached or adopted fiscal note(s)

new updated or previous
 zero fiscal impact

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS




Chairman signature and recommendation

Committee Backup Attached

BILL NO: CSSB 146(L&C)

DATE: 4/14/87

TITLE: "An Act relating to weights and measures; and providing for an effective date."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY / PERMIT

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

Sec. 45.75.131 may be redundant and may contradict AS 12.25.200.

The Department of Public Safety does not feel it should be placed in the position of determining who can be employed by another executive department. Nor should the Commissioner of the Department of Public Safety be in a position to determine the individuals in another executive agency authorized to enforce the statutory responsibilities of that agency.

Proposed Amendments:

AS 45.75.131 Change the Commissioner of Public Safety to the Commissioner of Commerce & Economic Development.

Add to Sec 45.75.131: (4) equipment violations detected at scale house operation.

Delete Sec. 45.75.131 (b) through (g).

Change paragraph (4) to paragraph (b); add paragraph (c) which states a citation issued under this Section be in accordance with AS 12.25.200.

The Division of Alaska State Troopers opposes this legislation, however, would support with amendments.

Arthur English
Arthur English
Commissioner



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.

BILL NO: CSSB 146(L&C)

DATE: 4/14/87

TITLE: "An Act relating to weights and measures; and providing for an effective date."

CONTACT: James D. Vaden
Deputy Commissioner
465-4322

DEPARTMENT OF PUBLIC SAFETY / POSTING PAPER

Provides authority for certain employees of the Department of Commerce and Economic Development, in addition to peace officers, to enforce specific commercial vehicle regulations; establishes procedures, and provides an effective date.

This proposed legislation would provide authority for certain employees of the Department of Commerce and Economic Development to issue citations for size, weight, and load violations on vehicles, as well as violation of provisions of oversize and/or overweight permits.

This legislation corrects a deficiency in Title 19 and provides for penalties for violation of overweight and oversize vehicles as well as violation of permit limitation.

Sec. 45.75.131 may be redundant and may contradict AS 12.25.200.

The Department of Public Safety does not feel it should be placed in the position of determining who can be employed by another executive department. Nor should the Commissioner of the Department of Public Safety be in a position to determine the individuals in another executive agency authorized to enforce the statutory responsibilities of that agency.

Proposed Amendments:

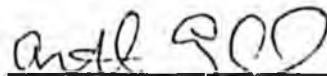
AS 45.75.131 Change the Commissioner of Public Safety to the Commissioner of Commerce & Economic Development.

Add to Sec 45.75.131: (4) equipment violations detected at scale house operation.

Delete Sec. 45.75.131 (b) through (g).

Change paragraph (4) to paragraph (b); add paragraph (c) which states a citation issued under this Section be in accordance with AS 12.25.200.

The Division of Alaska State Troopers opposes this legislation, however, would support with amendments.



Arthur English
Commissioner

5-0597L
Ford
4/23/87

Original sponsor: Transportation Committee

IN THE SENATE

BY THE TRANSPORTATION COMMITTEE

CS FOR SENATE BILL NO. 146 (Transportation)

IN THE LEGISLATURE OF THE STATE OF ALASKA

FIFTEENTH LEGISLATURE - FIRST SESSION

A BILL

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

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

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

(b) The regulations may include

(1) standards of net weight, measure, or count, and reasonable standards of fill, for a [ANY] commodity in package form;

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

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

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

(5) in the implementation of AS 44.33.020(25), provisions governing the size, weight, and load limitations established under 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;

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

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

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

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

0 (d) The commissioner is responsible for the issuance of books
1 containing appropriate citations and shall maintain a record of each
2 book and each citation contained in it. The commissioner shall re-
3 quire and retain a receipt for every book issued to an employee of the
4 Department of Commerce and Economic Development designated by the
5 commissioner to provide investigative service to enforce provisions of
6 this chapter.

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

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

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

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

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

Sec. 45.75.133. BAIL FORFEITURE. (a) The supreme court shall specify by rule or order those violations that are appropriate for disposition without court appearance, and shall establish a schedule of bail amounts. The maximum bail forfeiture amount for an offense 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
0 a [ANY] commercial purpose specified in AS 45.75.080, sells, offers,
1 or exposes for sale, or hire, or has in possession for the purpose of
2 selling or hiring, an incorrect weight or measure or a device or
3 instrument used to or calculated to falsify a weight or measure;

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

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

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

8 (C) [UNLESS] the weight or measure is exempt from
9 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) disposes 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).
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