

HB

2

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 4
Juneau, Alaska 99801-221

MEMORANDUM

February 8, 1993

SUBJECT: Drug and alcohol testing for school bus drivers (HB 2)

TO: Representative Gail Phillips

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have asked whether there are legal questions raised in HB 2, requiring drug and alcohol testing for school bus drivers.

In my opinion, implementation of this program could be subject to legal challenge as a government-required search for which the school district had not established probable cause that a violation of law had occurred or as an invasion of the bus driver's privacy.

Many courts have required individualized suspicion before a urinalysis is conducted. However, some courts have been willing to allow random drug searches without probable cause where the employee's expectation of privacy is lessened because of the type of employment and where the public interest was sufficiently great. In Internat'l Broth. of Teamsters v. Department of Transportation, 932 F.2d 1292 (9th Cir. 1991), the court examined a drug testing program that required commercial motor vehicle operators to submit to a pre-employment, post-accident, and biennial drug testing program for drivers operating certain interstate motor vehicles. The court considered the seriousness of harm if those vehicles were operated while the driver was impaired by drugs, the extent of government regulation already present in the industry, and the extent of government monitoring of the drivers health and qualifications, which includes a required urinalysis already. The court concluded that the additional intrusion of the drug testing procedure was constitutionally tolerable.

In Amalgamated Transit Union, 1277 v. Sunline Transit Agency, 663 F.Supp 1560 (C.D. Cal. 1987), the plaintiff union asked the District Court to issue a preliminary injunction against the defendant's proposed alcohol and drug testing program which included random drug testing. The court awarded the preliminary injunction noting that the evidence did not disclose a single documented case of alcohol or drug abuse, nor were there allegations of accidents caused by alcohol or drug abuse. The court

Leg. Legal opinion regarding
Constitutionality

Representative Gail Phillips
February 8, 1993
Page 2

ruled that drug testing that was not based on a reasonable suspicion that the employee was under the influence of alcohol or drugs was an unreasonable search.

Implementation of the drug testing program could also be challenged as an invasion of privacy. However, Luedtke v. Nabors Alaska Drilling, Inc., 768 P.2d 1123 (Alaska 1989), the Alaska supreme court considered a private company's implementation of a drug testing program and found that the invasion of the employee's privacy was outweighed by the safety considerations inherent in the work performed. The court did not rely on the constitutional right to privacy,^{1/} holding that it applies only to government action and not to private action. The court did analyze the constitutional right when considering the public policy against invasion of privacy. The court found that urine testing was a minimal invasion of privacy, that the employer already required urine testing as part of the annual physical examination requirement, and that the seriousness of harm that could result from an accident on an oil drill rig was sufficient to outweigh the employee's privacy interest. Since legislation necessarily involves government action, a bus driver could clearly claim that his or her constitutional right to privacy had been invaded. The analysis in Luedtke suggests how the state might answer that challenge.

Under the Teamsters and Luedtke analyses, in determining whether the testing program proposed by HB 2 could survive a constitutional challenge either as an unconstitutional search or as an invasion of privacy, a court would weigh how extensively school bus drivers are regulated now, including the intrusiveness of the current regulation on their expectation of privacy, the history of drug or alcohol abuse by and accidents involving school bus drivers, and the seriousness of harm that could result if a school bus were involved in a motor vehicle accident. Whether the law would survive the legal challenge depends on the persuasiveness of the facts presented. The requirement in HB 2 for random drug testing would require particularly strong evidence to uphold.

Please let me know if I can be of further assistance.

TC:pl
93-070.plm

^{1/}Art. 1, sec. 22, Constitution of the State of Alaska, states
The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section.

Alaska State Legislature



House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

HOUSE JUDICIARY COMMITTEE LETTER OF INTENT FOR H. B. 2

It is the intent of the House Judiciary Committee in passing HB 2, that the random testing for drugs and alcohol called for in the bill be done in a non-predictable manner. That is, merely because a person is tested today does not mean they may not be tested again tomorrow. The legislature does not want to create a situation where someone subject to this act feels that, once tested, they will not be tested again until the next annual cycle.

In addition, the Committee has special concerns that the regulations promulgated to implement H. B. 2 should provide for careful attention to the handling of samples and other testing procedures to preclude the possibility of someone becoming falsely incriminated in the use of drugs or alcohol.

SENATE COMMITTEE REPORT

John: Mike

DATE: 4/13/93

FURTHER: JUDICIARY
FINANCE

DATE TURNED INTO OFFICE: 3/16/94

HES Committee considered CS FOR HOUSE BILL NO. 2(RLS)

"An Act requiring drug and alcohol tests for school bus drivers."

and recommends:

- replace with _____ CS _____ ()
- or adopt previous _____ CS _____ ()
- attaches amendment(s)

- same title
- new title
- technical title change (HB only)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal
Education	12/17/93		84.0

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

Mike Miller
Forew A. Lewan
Burt Sharp

OTHER RECOMMENDATIONS:

It can't be done
Judy Salt No

Senate HESS
Committee Report

Steve King, Dr. Pass
Chair: Signature and Rec

POSITION PAPER: DEPARTMENT OF EDUCATION

Division Administrative Services Bill Number CSHB 2 (R.S)

Bill Title Drug and Alcohol Tests for School Bus Drivers

Sponsor Representative Gail Phillips

Position Statement: Explain briefly what the bill does, its impacts and Department's position, i.e., a) support, b) do not support, c) neutral or d) oppose.

The Department of Education supports the concept of drug and alcohol tests for school bus drivers. At a minimum we believe that all drivers should be tested prior to employment, and be subject to random testing. Random tests would be conducted in a nonpredictable manner throughout the school year, and the number of tests administered each year would approximate 50% of the total number of persons employed as school bus drivers. Additional testing would be done after an accident and when reasonable cause exists.

This frequency is consistent with mandatory testing requirements in the states of Delaware and Arizona, and comparable to federal requirements for drivers of school buses in interstate commerce. Drivers of school buses within Alaska are not currently affected by federal drug testing requirements.

APPROVED:

Director *Gary M. Bos* Division *Administrative Svcs.*

Signature _____ Date _____

Commissioner/Deputy _____

Signature *Mad M...* Date *4/16/93*

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

My bill file

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 403
Juneau, Alaska 99801-2105

MEMORANDUM

March 15, 1994

SUBJECT: Drug and alcohol tests for school bus drivers (CSHB 2 (Rls))
TO: Representative Gail Phillips
FROM: Teresa B. Cramer *TC*
Legislative Counsel

You have asked whether CSHB 2 (Rules) applies to all individuals who provide transportation for students, including volunteers who drive their own cars, or whether it should be read as applying to a more limited group of drivers.

The answer is not entirely clear. Section 14.09.025(a) enacted by the bill states

A school district or regional educational attendance area that provides for the transportation of pupils shall require that the drivers of motor vehicles used to transport pupils submit to testing for the use of drugs and alcohol. The testing program must include random testing. A driver who tests positive for the improper use of drugs or alcohol may be disciplined, including termination from employment.

On its face, the requirement to submit to testing applies to "drivers of motor vehicles used to transport pupils." This would include volunteers as well as paid drivers.
→ However, I believe that the better interpretation is to read that requirement in context. The new statutory section enacted by this bill follows AS 14.09.010, which
← permits the Department of Education to "provide for the transportation of pupils." That phrase is repeated in the bill and it is that kind of transportation -- that is, transportation operated or paid for by school districts that meets the department's requirements under AS 14.09.010 -- that the drug and alcohol testing requirement should be applied to. This interpretation is supported by the statement in subsection (a) set out above that a driver who tests positive may be disciplined or terminated from employment.

The Department of Education is directed, in subsection (b) of Sec. 14.09.025 of the bill, to adopt regulations to implement the section. Ambiguities about the application of the bill to various kinds of drivers could be cleared up through regulation. However, the better course is to clarify the statute. If you would like an amendment prepared, please let me know.

TC:pl:mi
94-203.plm

Applicability Analysis

**DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 13, 1993

SUBJECT: Sectional Summary of CSHB 2 (RULES)(Drug and alcohol tests for school bus drivers)

TO: Representative Gail Phillips

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill is not considered an authoritative interpretation of the bill. The bill itself is the best statement of its contents.

Section 1 states the legislative findings and purpose.

Sec. 2 requires school districts and regional educational attendance areas to require school bus drivers to submit to testing for the use of drugs and alcohol. The testing program must include random testing. A driver who tests positive for the improper use of drugs or alcohol may be disciplined, including termination from employment.

Subsection (b) requires the department to adopt regulations, including procedures for hearings. Subsection (c) defines "improper use of drugs or alcohol."

TC:mi
93-069.mai

Alaska State Legislature

House of Representatives

Official Business



State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

SPONSOR'S STATEMENT - CSHB2(RLS) DRUG AND ALCOHOL TESTING FOR SCHOOL BUS DRIVERS APRIL 27 - SENATE JUDICIARY COMMITTEE

Current Alaska law makes no provision for the routine testing of school bus drivers for improper drug and alcohol use. This bill will provide for such testing.

The need for this measure arose from incidents that occurred in my district on the Kenai Peninsula. I feel we must do all that we can to protect Alaska's children while they are traveling to and from school. Other states are already doing this. The committee is in possession of background material that shows similar laws are already in place or proposed in Arizona, Maryland, Louisiana, Illinois and Missouri. Within Alaska, the North Slope borough has such a policy for all employees.

The federal government is in the process of adopting regulations that will mandate testing for those who are required to have commercial drivers licenses for the operation of intra-state school buses. HB2 is needed at this time because the effective date, and degree of state implementation of the federal regulations is uncertain. The federal regulations may also not apply to school buses with a capacity less than 15 passengers, which do not require a commercial license for operation.

There is a memo from Leg Legal dated February 8, 1993, addressing the constitutional question of privacy rights as it relates to random testing. A review of the decision in International Brotherhood of Teamsters vs. DOT reveals that public interest must be greater than the expectation of individual privacy in sustaining random testing statutes. It is my view that providing safety for our school children meets that requirement, and represents the highest public interest.

SPONSOR STATEMENT

Language in Section 1 stresses this compelling interest. The House Judiciary Committee added a Letter of Intent relating to the non-predictable nature of the random testing, and the care to be taken in safeguarding the rights of the innocent.

The Department of Education has submitted an \$84,000 fiscal note for the operation of this program. This includes pre-employment testing and random testing which would cover all school bus drivers in a two-year cycle. That is, the number of random tests conducted each year would be equivalent to half the number of drivers. The specifics of the testing program would be worked out by the administering agency in the course of developing appropriate regulations.

In your folder is a letter of support from the Alaska Truckers Association and a positive position paper from the Department of Education. The bill passed out of the House on a 30-0 vote. I ask for your favorable consideration of HB2.

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 2 (RLS)

1994 LEGISLATIVE SESSION

Revision Date: December 17, 1993

Department Affected: Education

Title: Drug and Alcohol Testing for School Bus Drivers

BRU: Executive Administration

Component: Administrative Services

Sponsor: Representative Gail Phillips

Requestor: _____

COMPONENT SERIAL NO. 157

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL	3.0	3.0	3.0	3.0	3.0	3.0
CONTRACTUAL	79.0	79.0	79.0	79.0	79.0	79.0
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	84.0	84.0	84.0	84.0	84.0	84.0

CAPITAL						
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REVENUE FUND SOURCE:	GF	GF	GF	GF	GF	GF
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.0	84.0	84.0	84.0	84.0	84.0
1005 GF/Program Receipts						
1006 GF/MHTLA						
Other						
TOTAL	84.0	84.0	84.0	84.0	84.0	84.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)

This is an update to the fiscal note prepared 4/14/93.

Prepared by: Karen J. Rehfeld
 Division: Administrative Services

Phone: 465-8650
 Date: December 17, 1993

Approved by Commissioner: [Signature]
 Agency: Education

Jerry Covey
 Date: December 17, 1993

PREPARER TO PROVIDE ALL DISTRI

For further distribution in

FISCAL NOTE

LEGISLATIVE OFFICE

ALASKA DEPARTMENT OF EDUCATION
CSHB 2 (RLS)
 Drug/Alcohol Testing of School Bus Drivers
 Revised Fiscal Note - 12/17/93
 \$84,000 Annual Cost

ASSUMPTIONS:

1. Each driver would receive an alcohol/drug test prior to his/her employment as a school bus driver.
2. Random testing would be conducted throughout the year. The number of random tests administered each year would approximate 50% of the total number of persons employed as school bus drivers.
3. Post-accident and reasonable cause testing could also be conducted.
4. The drug/alcohol test would be a urine test.
5. The estimated cost for one test is \$80 to cover taking of sample, shipping to lab, analysis, record keeping, and follow-up if results come back positive.

CALCULATION OF \$84,000 ANNUAL COST:

<u>Pre-Hire Tests:</u>	480
Estimated number of pre-hires based on number of original school bus driver permits issued annually by Department of Public Safety, Division of Motor Vehicles	
<u>Random Tests:</u>	+ 420
Estimated number of individuals employed as school bus drivers on any day of the school year: 840 drivers x 50% = 420 random tests	
Estimated total number of annual alcohol/drug tests to be conducted:	<u>900</u>
x estimated cost for test	x \$80
Estimated annual cost for tests	\$72,000
Estimated annual cost to administer the program: (Hearing Officer \$5,000; travel \$3,000; supplies \$2,000; printing, telephone, etc. \$2,000)	<u>12,000</u>
TOTAL ESTIMATED ANNUAL COST TO STATE	\$84,000

FCR = 393

MEMORANDUM

State of Alaska
Department of Education

To: John Peterson
Aide
Rep. Gail Phillips
Thru: *McL* Mike Maher
Deputy Commissioner

Date: February 10, 1993

Phone: 465-2800

File:

From: Romaine Kareen
Pupil Transportation
Coordinator

Subject: Drug\Alcohol
Testing for
School Bus Drivers

Below is the information you requested from the Department of Education regarding drug and alcohol testing for school bus drivers.

What is the present role of the Federal government in drug\alcohol testing of school bus drivers?

The Federal government currently requires drug testing of school bus drivers who are involved in interstate transportation. School bus drivers who do not cross state lines are not required to be tested. Therefore, school bus drivers who transport students to and from school, solely within Alaska, are not subject to the testing requirements.

What is being proposed at the Federal level for drug\alcohol testing of school bus drivers?

The Federal government has issued a Notice of Proposed Rulemaking requiring that all operators of commercial motor vehicles subject to Commercial Driver's License requirements be tested for controlled substances and alcohol. In Alaska, drivers of school buses with more than 15 passenger capacity, including the driver, are required to possess a Commercial Driver's License. These drivers would therefore be subject to the proposed drug\alcohol testing requirement. Comments on the proposed rulemaking are due by April 14, 1993. Depending upon comments received, it may be some time before the rules are finalized and become effective - possible 1994 or even 1995.

In Alaska, drivers of school buses with a capacity of 15 passengers or less, including the driver, are not required to possess a Commercial Driver's License. These drivers would not be subject to the proposed drug\alcohol testing.

OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT OF 1991

PROPOSED CHANGES TO EXISTING DOT DRUG TESTING REGULATIONS

- o Add 200,000 transit workers to coverage
- o Add 3 million intrastate commercial drivers license operators to coverage (including school bus, state and municipal truck drivers, and community activity bus drivers)
- o Mandate split specimen collection procedures for FAA, FRA, FHWA, and FTA mandated testing
- o Mandate return-to-duty/follow-up testing and evaluation by a substance abuse professional for employees who test positive and are returned to safety-sensitive duties
- o Discontinue periodic drug tests (at time of physical examinations) for truck/bus drivers

PROPOSED ALCOHOL TESTING REGULATIONS

- o Add alcohol testing to FAA, FRA, FHWA, RSPA regulations for safety-sensitive employees.
- o Add alcohol testing for 200,000 transit workers (FTA)
- o Mandate alcohol breath tests (.04 BAC cut-off): pre-employment, random, reasonable suspicion, post-accident, and return-to-duty/follow-up
- o Mandate actions for lower BAC (.02-.039)
FHWA - driver out-of-service for 24 hours
FRA - RR workers out of service for 8 hours
FAA, RSPA, FTA workers out of safety jobs for 8 hours or until BAC is < .02.
- o Breath tests must be conducted by trained operator on evidential breath testing device (EBT) certified by NHTSA.
- o Establish pre-duty abstinence requirements
FAA - 8 hours for flight crew, 4 hours all others
FHWA, RSPA, FTA, FRA - 4 hours.
- o Mandate return-to-duty/follow-up testing and evaluation by substance abuse professional for employees who test positive and are returned to safety sensitive duties.
- o Prohibit on-duty consumption of alcohol

NORTH SLOPE BOROUGH
ORDINANCE SERIAL NO. 91-07

AN ORDINANCE PROVIDING FOR THE ESTABLISHMENT
OF A DRUG TESTING PROGRAM FOR NORTH SLOPE
BOROUGH EMPLOYEES

WHEREAS, the North Slope Borough has a compelling interest in assuring the safety and security of all Borough employees and all citizens of the Borough as they go about their daily business, and

WHEREAS, the North Slope Borough, as the largest employer in the Borough and as a matter of public policy, has a critical interest in securing a safe workplace, and

WHEREAS, citizens and communities throughout the North Slope Borough have indicated that substance abuse in the workplace is a continuing and growing concern, and

WHEREAS, numerous Borough employees are currently subject to Federal regulations governing drug use in the workplace which require drug testing of said employees, and

WHEREAS, the Drug and Alcohol Policy of the North Slope Borough was adopted to address the problem of drug and alcohol abuse by Borough employees, and

WHEREAS, the ultimate concern of the Borough is the protection of workplace and public safety, it is in the best interest of the Borough and the citizens of the North Slope Borough to extend drug testing to all Borough employees to ensure the safety of all.

NOW THEREFORE, BE IT ENACTED:

SECTION 1. Classification. This ordinance is of a general and permanent nature and shall become part of the Borough code.

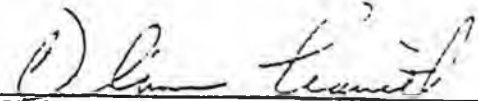
SECTION 2. Severability. If any provision of this ordinance or any application thereof to any person or circumstance is held invalid, the remainder of this ordinance and the application to other persons or circumstances shall not be affected thereby.

SECTION 3. Effectiveness. This ordinance shall become effective upon adoption.

SECTION 4. Adoption of Section. Title 2, Chapter 20, Section 440 is hereby adopted as annexed hereto as part of Title 2 of the Code of Ordinances of the North Slope Borough.

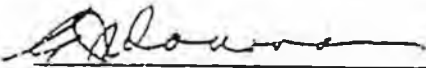
INTRODUCED: August 13, 1991

ADOPTED: Sept. 10, 1991

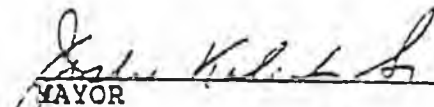

PRESIDENT

Date: 9-26-91

ATTEST:


BOROUGH CLERK

Date: 9-26-91


MAYOR

Date: 9-26-91

ALASKA TRUCKING ASSOCIATION, INC.

3443 Minnesota Drive • Anchorage, Alaska 99503 • PHONE (907) 276-1149 • FAX (907) 274-1946

April 16, 1993

Steve Rieger
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Rieger:

On behalf of Alaska Trucking Association's membership I respectfully urge your support of House Bill 2, which mandates a drug testing program for Alaska's school bus drivers.

The trucking industry has been drug testing its drivers for the past three years and believes the program to be effective and beneficial in helping assure a driver's qualification.

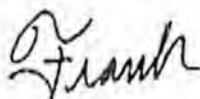
If it makes good safety sense for commercial drivers hauling freight to be tested, it makes even more sense to test commercial drivers who transport the most precious and valuable of "freight", our children.

I believe passage of this bill is important this session and would ask your help and support to make it happen.

Thank you for your attention and consideration.

Support H.B. 2!

Yours truly,



Frank J. Dillon
Executive Director

FJD/pch



Matanuska-Susitna Borough School District

125 WEST EVERGREEN — PALMER, ALASKA 99645 — (907) 746-9200

Dr. Ell B. Soranson, Superintendent

April 15, 1994

Senator Robin Taylor
Alaska Legislature
State Capitol
Juneau, AK 99801-1182

Subject: House Bill #2 Titled "An Act Requiring Drug And
Alcohol Tests For School Bus Drivers"

Dear Senator Taylor:

I recently reviewed House Bill #2 which mandates drug and alcohol tests for school bus drivers in the state of Alaska. I have discussed some of my concerns with Representative Gail Phillips' office and forwarded the comments and concerns which I have listed below. It is my understanding that HB2 is under review in Senate Judiciary at this time.

My comments and concerns relating to the HB2 are as follows.

- 1) HB2 appears to be a duplication of a new federal employee drug testing mandate effective, January 1, 1995, for employers with 50 or more employees and on January 1, 1996, for employers with less than 50 employees. All employers, public and private, are covered. Regulations for the Omnibus Employee Drug Testing Act of 1991 and the subsequent law which tied in alcohol testing was published February 15, 1994, and addresses both drugs and alcohol.

The federal mandate targets all individuals with a Commercial Drivers License (CDL), which includes all school bus drivers for both public and private schools. HB2, however, covers only public school bus drivers. The regulations which were published includes complicated and comprehensive criteria for testing and compliance.

Senator Robin Taylor

April 15, 1994

Page 2

- 2) It is not clear to me what drivers the HB2 is supposed to cover. The language of the bill is so vague it seems possible that the testing mandate could cover a teacher or principal who might on occasion transport a student home in his or her car. Perhaps, even a parent transporting his child and other students to a school sponsored activity in his or her personal vehicle would fall under the testing requirements. HB2 uses words like, "person", "vehicle", "transports pupils." The bill is entitled "Drug Testing For School Bus Drivers" but isn't specific about who transports pupils, for what purpose they transported and in what vehicle they are transported.

It appears that House Bill #2 may exceed the federal mandate due to the vague language of the bill and may sweep broadly across school district personnel or parents who might be called upon to transport students home or some other place in an emergency situation. It has been suggested to me that the intent of the bill is to cover school sponsored activity transportation of students. If that is so, the language of the bill should make that clear.

In the Mat-Su Borough School District, any person, a volunteer parent, teacher or paid bus driver who transports students for any purpose in any District vehicle, whether it be a school bus or a vehicle which is not a school bus, are required to have a Commercial Drivers License (CDL) with the appropriate school bus driver endorsements. Under the federal mandate all persons who transport students on activity trips in District vehicles or home-to-school drivers in the Mat-Su Borough School District would be subject to drug and alcohol testing.

In summary, I believe HB2 duplicates the federal mandate addressing only school bus drivers, a small segment of the transportation employees considered to hold safety related positions in Alaska. HB2 also appears to exceed the federal mandate and appears to target school district personnel or parents who may transport students on an occasional basis.

If in fact the intent of the bill is to provide protection to students on school sponsored activity trips, the language of HB2 should make that clear. However, it appears that there are very few vehicles used to transport students that do not require a driver with a Commercial Drivers License (CDL).

Senator Robin Taylor

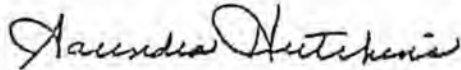
April 15, 1994

Page 3

It has been suggested to me that we wait and let the "regulations" which implement the law clarify what driver, what vehicle, and what kind of transportation the law really addresses. I think that the intent of the HB2 should be clear and that the regulations should reflect what the law clearly states. I don't support House Bill #2 in its present form. Either the bill should be dropped or the language clarified.

I appreciate very much your concern for and efforts to ensure the safe transportation of our students to and from school and on activity trips. My comments and recommendations are respectfully submitted.

Sincerely yours,



Saundra C. Hutchins
Pupil Transportation Coordinator

k11

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, Alaska 99801-1182
(907) 465-3718

House Majority Leader

April 22, 1994

Ms. Sandra Hutchins
125 West Evergreen
Palmer AK 99645

Dear Ms. Hutchins:

After reading your recent letter and hearing from my staff about your reservations in regards to my drug testing bill, I would like to respond to your concerns.

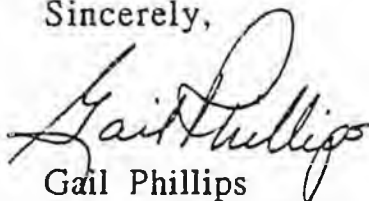
It is true that federal drug testing regulations are to be implemented, in the future, to cover all bus drivers with a Commercial Drivers License. In my communications with the Federal DOT authorities, I understand that states are entitled to, and often exercise, the right to adopt only part of any of this type of regulation. Notwithstanding the threat of withholding an unspecified amount of federal DOT funds, Alaska has the responsibility to adopt federal regulations in a manner that is consistent with its ability to oversee and enforce those directives. Given the interest in my district for drug and alcohol testing, I am committed to establishing state requirements that meet or exceed the federal regulations, with language that is broad enough to encompass the unique bussing situations in Alaska.

An integral part of this bill is the section which speaks to disciplinary prerogatives of the driver's employer. The legal opinion within the bill analysis done by the state attorney, is that the broad brush of inclusion you fear is offset by this disciplinary clause. **THIS LEGISLATION IS TARGETED AT THOSE WHO TRANSPORT STUDENTS FOR FINANCIAL COMPENSATION.** It is likely that this will be the standard of legal interpretation. The legislative history of this bill will reveal the same intent, when and if the question appears in a court of law.

While I am not insensitive to concerns raised by individuals like yourself who are responsible for pupil transportation, there is a legitimate question here on how much language should be used in a bill that must cover a broad spectrum of situations. Are the people better served by a law with latitude for interpretation over different circumstances, or by a law with extremely specific inclusions which often needs adjustment as times and situations change?

It is my belief that the people of Alaska are best served by elevating awareness of our intent to sever substance abusers from the commercial operation of passenger vehicles. Following that, I have great confidence that the people will reasonably implement such a statute in whatever way guarantees that their children's safety will attain the highest priority.

Sincerely,

A handwritten signature in cursive script that reads "Gail Phillips". The signature is written in dark ink and is positioned above the printed name.

Gail Phillips
REPRESENTATIVE

GP:mh

cc: Senator Taylor