

HB

218

REPRESENTATIVE
JEANNETTE JAMES
P.O. Box 56622
North Pole, Alaska 99705
(907) 488-0862

House District 34



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3745

House Of Representatives

SPONSOR STATEMENT

HOUSE BILL 218

"Prompt payment of owner-operators of trucks"

This bill was filed upon request for the Alaska Independent Truckers Association, to provide for their prompt payment. Recent experiences with brokers, as sub-contractors, has caused great distress due to inability of the truckers to receive prompt payment. This is not only an economic issue, this is a safety issue.

To solve the problems experienced several things need to happen. The truckers themselves must organize their own contract and billing system which they are doing to support their claim for statute change. Subcontractors currently have statute support for prompt pay and employees are covered by labor laws, but this statute support does not reach down to the owner-operators of trucks.

Independent truck owners, who hire out themselves and their trucks for construction and other short term jobs need to depend on prompt payment for their services in order to maintain their truck and guarantee safe operations on our highways and roads.

This bill is specific to "trucking owner-operator" as defined in Section 2, (d)(6) of the bill and does not extend to any other segment of small business. The truckers are instituting a system of semi-monthly billings and this bill will make those billings payable within 14 days, a reasonable length of time.

9-LS0352G
Bannister
3/6/95

CS FOR HOUSE BILL NO. 218()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JAMES BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the payment of certain trucking owner-operators."

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

3 * Section 1. AS 37.05.285(d) is amended to read:

4 (d) This section does not apply

5 (1) if the cost of the goods or services purchased exceeds \$500,000;

6 (2) to payment for specific goods or services in dispute after a seller

7 of goods or services receives notice from the state official responsible for authorizing

8 payment for goods and services that the amount of the invoice or quality of specific

9 goods or services is in dispute and stating the reasons for the dispute; [:] the state

10 agency shall pay for the specific goods or services in dispute within 30 days after

11 resolution of the dispute; or

12 (3) to a contract covered by AS 36.90.200 - 36.90.290 or

13 AS 45.45.920.

14 * Sec. 2. AS 45.45 is amended by adding a new section to read:

15 Sec. 45.45.920. PAYMENT OF TRUCKING OWNER-OPERATORS. (a)

1 Notwithstanding AS 36.30.200 - 36.30.290, if a prime contractor or a subcontractor on
2 a construction contract contracts orally or in writing with a trucking owner-operator
3 for the trucking owner-operator to haul material for the construction project, the prime
4 contractor or subcontractor who contracts with the trucking owner-operator shall pay
5 the trucking owner-operator for the hauling within 14 days after the trucking
6 owner-operator submits a bill for the hauling to the prime contractor or subcontractor
7 who contracts with the trucking owner-operator. A trucking owner-operator may not
8 submit more than two bills a month under this section to the same prime contractor
9 or subcontractor.

10 (b) Notwithstanding AS 36.90.200 - 36.90.290, if a payment is not made as
11 required by (a) of this section, the prime contractor or subcontractor who contracts
12 with the trucking owner-operator shall pay the trucking owner-operator interest on the
13 unpaid amount of the required payment from the eighth calendar day after the date
14 required for payment under (a) of this section at an interest rate that is equal to 1.5
15 percent a month.

16 (c) In order to be covered by this section, a trucking owner-operator must have
17 all licenses, permits, and insurance for the hauling required by the state and by the
18 municipality, if any, where the construction project takes place.

19 (d) In this section,

20 (1) "construction project" means the construction, alteration, repairing,
21 moving, or demolishing of a building, highway, road, railroad, or other improvement
22 to real property;

23 (2) "material" includes dirt, gravel, asphalt, brush, salt, demolition
24 debris, contaminated soil, and contaminated waste, but does not include pre-mixed wet
25 concrete;

26 (3) "person" includes the state and a subdivision of the state;

27 (4) "prime contractor" means a person who enters into a contract
28 directly with an owner or lessor of real property for a construction project on the real
29 property;

30 (5) "subcontractor" means a person at any level, other than a prime
31 contractor or a supplier, who provides materials or services, other than as an employee,

1 to be used in a construction project;

2 (6) "trucking owner-operator" means a person who owns and operates,
3 other than as an employee, a truck to haul material for a construction project, but does
4 not include a person whose hauling is subject to 49 U.S.C. 10101 - 11916 (Interstate
5 Commerce Act).

6 * Sec. 3. This Act applies to contracts that are entered into on or after the effective date
7 of this Act.

Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES

P.O. Box 56622
North Pole, Alaska 99705
(907) 488-1546
FAX (907) 488-9006



While In Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives

House District 34

SPONSOR STATEMENT

HOUSE BILL 218

"Prompt payment of trucking subcontractors"

This bill was filed upon request for the Alaska Independent Truckers, to provide for their prompt payment. However, HB 218 could fill a niche and open a door for an entire category of service providers in Alaska.

We claim we want to create jobs. Here is a way to do it.

There is a group of skilled workers and professionals in our state who fall between the cracks. They are not small businesses. They are not employees. They are each individual operators who provide their own tools, equipment, and expertise for hire. They offer small businesses all the advantages of a single temporary employee, available only when needed, without the red tape and expense of hiring and firing employees, renting or buying equipment, and training operators.

Since these workers are just single independent operators, they do not have a resource of working capital and they need to be paid on a regular and prompt basis.

Often these single independent operators do eventually raise enough capital to create their own small businesses. They can be the forerunners for a more healthy business environment in Alaska if we clear their way. HB 218 could be the start.

CS FOR HOUSE BILL NO. 218(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE JAMES BY REQUEST

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the payment of certain trucking owner-operators."

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

3 * Section 1. AS 37.05.285(d) is amended to read:

4 (d) This section does not apply

5 (1) if the cost of the goods or services purchased exceeds \$500,000;

6 (2) to payment for specific goods or services in dispute after a seller
7 of goods or services receives notice from the state official responsible for authorizing
8 payment for goods and services that the amount of the invoice or quality of specific
9 goods or services is in dispute and stating the reasons for the dispute; [:] the state
10 agency shall pay for the specific goods or services in dispute within 30 days after
11 resolution of the dispute; or

12 (3) to a contract covered by AS 36.90.200 - 36.90.290 or
13 AS 45.45.920.

14 * Sec. 2. AS 45.45 is amended by adding a new section to read:

15 Sec. 45.45.920. PAYMENT OF TRUCKING OWNER-OPERATORS. (a)

1 Notwithstanding AS 36.90.200 - 36.90.290, if a prime contractor or a subcontractor on
2 a construction contract contracts orally or in writing with a trucking owner-operator
3 for the trucking owner-operator to haul material for the construction project, the prime
4 contractor or subcontractor who contracts with the trucking owner-operator shall pay
5 the trucking owner-operator for the hauling within 14 days after the trucking
6 owner-operator submits a bill for the hauling to the prime contractor or subcontractor
7 who contracts with the trucking owner-operator. A trucking owner-operator may not
8 submit more than two bills a month under this section to the same prime contractor
9 or subcontractor.

10 (b) Notwithstanding AS 36.90.200 - 36.90.290, if a payment is not made as
11 required by (a) of this section, the prime contractor or subcontractor who contracts
12 with the trucking owner-operator shall pay the trucking owner-operator interest on the
13 unpaid amount of the required payment from the eighth calendar day after the date
14 required for payment under (a) of this section at an interest rate that is equal to 1.5
15 percent a month.

16 (c) In order to be covered by this section, a trucking owner-operator must have
17 all licenses, permits, and insurance for the hauling required by the state and by the
18 municipality, if any, where the construction project takes place.

19 (d) In this section,

20 (1) "construction project" means the construction, alteration, repairing,
21 moving, or demolishing of a building, highway, road, railroad, or other improvement
22 to real property;

23 (2) "material" includes dirt, gravel, asphalt, brush, salt, demolition
24 debris, contaminated soil, and contaminated waste, but does not include pre-mixed wet
25 concrete;

26 (3) "person" includes the state and a subdivision of the state;

27 (4) "prime contractor" means a person who enters into a contract
28 directly with an owner or lessor of real property for a construction project on the real
29 property;

30 (5) "subcontractor" means a person at any level, other than a prime
31 contractor or a supplier, who provides materials or services, other than as an employee,

to be used in a construction project.

(6) "trucking owner-operator" means a person who owns and operates, other than as an employee, a truck to haul material for a construction project, but does not include a person whose hauling is subject to 49 U.S.C. 10101 - 11916 (Interstate Commerce Act).

* Sec. 3. This Act applies to contracts that are entered into on or after the effective date of this Act.

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 1, 1995

FURTHER REFERRALS:

Transportation
Judiciary

Date of Committee Action: April 12, 1995

The STATE AFFAIRS Committee considered:

HB 218

HOUSE BILL NO. 218

PROMPT PAYMENT OF TRUCKING SUBCONTRACTORS

"An Act relating to the payment of certain trucking operators."

recommends it be replaced with the following committee substitute CS HB 218 (STA) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) DOT & PF

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jannette James</i>	✓			
<i>Brian S. ...</i>			✓	
<i>...</i>			✓	
<i>...</i>			✓	
<i>Ed Willis</i>			✓	
<i>...</i>				✓

CHAIR'S SIGNATURE

Jannette James

Request Date: _____ Dept. Affiliation: DGT/SPF
 Title: An Act relating to payment of certain trucking BRU: D&C M&O
owner-operators. Component: _____
 Sponsor: James ESO
 Requester: _____ COMPONENT SERIAL NO. 547

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	01	01	01	01	01	01
PART-TIME	01	01	01	01	01	01
TEMPORARY	01	01	01	01	01	01

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Loren Rasmussen
 Division: Engineering and Operations Standards

Phone: 465-3960
 Date: 3/13/95

Approved by Commissioner: Joseph L. Perkins, P.E.
 Agency: Department of Transportation and Public Facilities

Date: 3/13/95

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information, call the Governor's Legislative Office