

**HB**

**218**

# Alaska State Legislature

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

House District 34



White 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.

**FISCAL NOTE**

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 218

Revision Date: \_\_\_\_\_ Dept. Affected: DOT&PF  
 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						
MISCELLANECUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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 Phone: 465-3960  
 Division: Engineering and Operations Standards Date: 3/13/95  
 Approved by Commissioner: Joseph L. Perkins, P.E. *Joseph L. Perkins* Date: 3/13/95  
 Agency: Department of Transportation and Public Facilities

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200 West 34th Avenue, Box 863

Anchorage, Alaska 99503 (907) 276-1934

April 20, 1995

Representative Gary Davis  
Chairman, Transportation Committee  
State Capital, Room 420  
Juneau, Alaska 99501-1132

Re: HB218, " An Act relating to the payment of certain trucking owner-operators."

Dear Representative Davis:

This bill, originally sponsored by Representative James and heard in State Affairs Committee, has generated no little controversy.

The Bill itself is very simple. The Independent Owner/Operators of trucks working primarily in the construction industry are asking for 1) recognition which they currently do not have, and 2) to be paid regularly without the recourse of having to wait for as much as 120 days before being paid, or having to threaten court action. It would be false to say all of the various contractors and sub-contractors are careless about payment to the truckers. Many pay every thirty days or as soon as they are paid. The reasons for the sub-contractors not being paid are as varied as the excuses used by the sub-contractors to the truckers. The fact that a sub-contractor did not get paid because he did not get his paperwork done should not be a factor in paying the trucker. The trucker completed the work for the period and is entitled to his or her pay. Problems up the line should not be a concern of the trucker. The business that paints my signs or supplies my office with paper and pens could care less that my clients might not have paid me. I owe the money and I have to pay. So should the sub-contractors.

Pro Bill Argument:

The pro bill argument is to identify Independent Owner/Operators under State law just as sub-contractors are now identified. In addition to identity under State law they would be identified under the Department of Transportation and Public Facilities Contract Specifications book. This identity would give the Independent Owner/Operators the right to find out where their money is. As it is now, they do not have the right to contact the State of Alaska or the Prime contractor to request their money. Their only recourse is to request their money from either the broker or sub-contractor that hired them. Under current law, they can find out who has been paid and when but the sub contractors are

LETTER OF SUPPORT

under no obligation to pay the truckers in any certain fashion. In most cases, the original contract was a verbal contract and there may have been as many as 5 or 6 different contracts in a single work day.

When a trucker is not paid for the work done, he is unable to pay for the fuel used during the job and tires and repairs he has had to make just to keep running. Meanwhile, the broker or sub-contractor is using the truckers money to pay his supplier so he can get a break on those supplies or he is using the money as seed money for more bids that come open. These are not new or unusual arguments, they have been going on for years. In the private sector, payment is controlled by the trucker and the private contractor. If the private contractor does not pay, he gets no more service. Under the larger State contracts, it's much harder to control because of the various entities taking a cut. There is also an unofficial black ball of any truckers that start to make waves about payment. It's denied, but it is never-the-less a fact of life for a trucker.

Safety. The safety issue is by far the most important argument for this bill. When truckers are not paid for work done, the first things that are paid with any available money is the mortgage or rent, food, clothing, and medical costs for the family, licenses and permits, insurance and any items absolutely necessary to keep the truck running a little longer in order to keep working. The luxury of getting new brakes put on or having the steering corrected or getting new tires in order to have a vehicle that is safe to drive and in compliance with established safety regulations, are the last things on which the available money is spent. A March 20, 1995 accident that resulted in the death of an Independent owner/operator near Homer, is a testament to that type of operation.

#### Con Argument:

The Associated General Contractors seem to be for the truckers being paid promptly, but against them being identified as independent owner/operators. They believe they should be sub-contractors. Since sub-contractors are required to be paid within 7 days of the prime contractor being paid by the State, this makes less sense than our proposal of twice monthly payment. In addition, it would be practically impossible to get a signed contract with the various contractors an independent might work for in any given season. Most of the work is assigned via a telephone, either at home late at night or by cellular phone while traveling down the highway. The Association is trying to develop a workable contract that will suit both the truckers and the contractors but has been hampered by the inability to get the various parties to sit down to discussions. Whether this bill passes or not, discussions will eventually have to be held with all parties in order to have a viable, safe industry.

The second argument appears to be that the State should not be put into the position of mediating pay problems on State jobs. This argument is specious. What the bill would do is give the truckers the right to find out where their money is and why they have not been paid. It puts the force of law where there is none. As it is now, a trucker can sue to his hearts content, and even if he wins he loses. With the law in place, an action against someone who had, in effect, mis-used the money owed to the truckers, a trucker would stand a much better chance of recovering his money. The possible additional civil or criminal actions against the contractors under other existing laws would also be a deterrent.

In summation, We are not asking for something not due us. The truckers are working mostly on faith and on verbal contracts. It's obvious, faith and fairness are not part of all those contractors wanting to use the truckers time and money. The trucker gets to do the work but gets paid when the sub-contractor or broker gets around to getting the paperwork in or getting the money out to pay the truckers. Even then, if the sub-contractor bid the job wrong or had equipment problems, the trucker is the one that pays that bill. An instance of this type would be a broker promising to pay \$74.00 per hour for an end dump and pup trailer, but because things did not go right, only pays the trucker \$68.00 per hour at the end of the job. The truckers choice now is to take it or leave it. We would like to be treated like any other small businessman and be paid for the work done at the stated price for that work. Your support for the bill would go a long way toward having safer operations and far less controversy over pay than has been seen in the past. We can no longer afford to have unsafe equipment operating on our roads and as it stands right now, without the bill, there will be more unsafe equipment operating than less.

Respectfully,

  
Robert E. Earman  
General Manager



INTERSTATE® BATTERY SYSTEM OF ALASKA  
7740 Schoon Street • Anchorage, Alaska 995  
(907) 349-15

April 25, 1995

The Honorable Gary Davis  
FAX 1-907-465-3835

Gentlemen:

We understand that H.B. 218 is up for a hearing in the House Transportation Committee on Wednesday April 26, 1995.

This bill does not help solve any of the problems associated with construction trucking in Alaska. It provides no solution that isn't available under current statute. It creates a special class of trucker, treats work done for the State differently than other work and discriminates against those carriers with I.C.C. authority.

We oppose H.B. 218.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Gary L. Eley', written over the typed name and title.

Gary L. Eley  
Sec. - Treas.  
IBS of Alaska

cc: Beverly Masek  
Jerry Sanders

LETTERS OF NON-SUPPORT



# TOTEM OCEAN TRAILER EXPRESS, INC.

2511 TIDEWATER ROAD • ANCHORAGE, ALASKA 99501  
PHONE (907) 278-5868 • ADM FAX (907) 278-0461

TO: Gary Davis  
Beverly Masek  
Bill Williams  
Jeannette James  
Jerry Sanders  
Tom Brice  
Eileen Maclean

DATE: April 26, 1995

RE: House Bill HB218

This Bill does nothing to solve the problems associated with the construction trucking in Alaska. Current statutes adequately addresses all issues in the Bill.

The Bill appears to create a special class of trucker, treats work done for the state differently than other work, and discriminates against carriers with ICC authority.

I strongly urge you to oppose HB218.

Ted DeBoer  
Alaska Operations Manager

**Lynden Transport, Inc.**

3027 Rumpart Drive  
Anchorage, Alaska 99501

**Fax Cover Sheet**

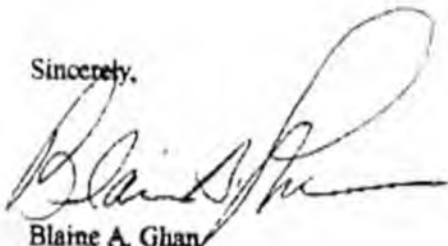
DATE: April 25, 1995                      TIME: 10:06 AM  
TO: Rep. Gary L. Davis                      PHONE:  
House Transportatio  
FAX: 1-907-465-3835  
FROM: Blaine A. Ghan                      PHONE: 1-907-276-4800  
Anchorage Termnal Mgr.                      FAX: 1-907-257-5155  
RE: Opposition to H.B. 218  
CC: Frank Dillon, ATA

Number of pages including cover sheet: 1

**Message**

We in the transportation industry, specifically trucking, are opposed to this bill. This bill discriminates against trucking companies with I.C.C. operating authority as well as treats work done for the state differently than other work.

Sincerely,



Blaine A. Ghan

Anchorage Terminal Manager

LETTER OF NON-SUPPORT

# WEAVER BROS., INC.

1611 E FIRST ST.  
ANCHORAGE, ALASKA 99501  
PHONE: 907-278-4526 FAX: 907-276-4316

P.O. BOX 2229  
KENAI, ALASKA 99611  
PHONE: 907-283-7957 FAX: 907-283-3677

JAMES H. DOYLE  
PRESIDENT

April 25, 1995

GARY DAVIS

I wish to express my opposition to H.B. 218.

This bill is up for a hearing in the House Transportation Committee on Wed. April 26th.

This bill does not help solve any of the problems associated with construction trucking in Alaska. It provides no solution that is not available under current statute. It creates a special class of trucker, treats work done for the state differently than other work and discriminates against those carriers with I.C.C. authority.

Please do not favor H.B. 218.

*James H. Doyle*

James H. Doyle  
President

LETTER of NON-SUPPORT