

HB

83

HOUSE COMMITTEE REPORT

(7) **Date Referred to Committee:** January 22, 1997 **FURTHER REFERRALS:** State Affairs

Date of Committee Action: 2/10/97

The TRANSPORTATION Committee considered: HB 83

HOUSE BILL NO. 83 **COMMERCIAL VEHICLE INSPECTIONS**

"An Act relating to commercial motor vehicle inspections; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 83 (TRA) 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) DPS zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Jerry Sanders</i> SANDERS	✓			
<i>Robert E. Elton</i> ELTON			✓	
<i>Albert Kocosh</i> KOCOSH	✓		✓	
<i>John Cowdery</i> COWDERY			✓	
<i>Beverly Masek</i> MASEK	✓			

CHAIR'S SIGNATURE *Beverly Masek*

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: HB 83

Revision Date: 1/31/97 Dept. Affected: Public Safety
 Title: Commercial Vehicle Inspections BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Martin
 Requestor: House Transportation COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
OPERATING						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 269-5412
 Division: Alaska State Troopers Date: January 31, 1997
 Approved by Commissioner: *Dale Smith* Date: 2/3/97
 Agency: Ronald L. Otte, Department of Public

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further d **Fiscal Note** lative Office

1/24/97

PART 396 INSPECTION, REPAIR, AND MAINTENANCE

This Part consists of the following Sections:

- Section 396.1 Scope.
- Section 396.3 Inspection, repair, and maintenance.
- Section 396.5 Lubrication.
- Section 396.7 Unsafe operations forbidden.
- Section 396.9 Inspection of motor vehicles in operation.
- Section 396.11 Driver vehicle inspection report(s).
- Section 396.13 Driver inspection.
- Section 396.15 Driveaway-towaway operations and inspections.
- Section 396.17 Periodic inspection.
- Section 396.19 Inspector qualifications.
- Section 396.21 Periodic inspection recordkeeping requirements.
- Section 396.23 Equivalent to periodic inspection.
- Section 396.25 Qualifications of brake inspectors.

In effect since 1991, these regs have been Admin adopted... Don't need and don't want the title 28 stuff. It would create entire new system and increase size of paper pushing government with NO safety gain
 JJA Diller

Authority: 49 U.S.C. 31133, 31136, and 31502; 49 CFR 1.48.
 Source: 44 FR 38526, July 2, 1979, unless otherwise noted.

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation_Continued

CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

SUBCHAPTER B FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.1 Scope.

General Every motor carrier, its officers, drivers, agents, representatives, and employees directly concerned with the inspection or maintenance of motor vehicles shall comply and be conversant with the rules of this part.

[44 FR 38526, July 2, 1979, as amended at 53 FR 18058, May 19, 1988]

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation_Continued

CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

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PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.3 Inspection, repair, and maintenance.

(a) General. Every motor carrier shall systematically inspect, repair, and maintain, or cause to be systematically inspected, repaired, and maintained, all motor vehicles subject to its control.

(1) Parts and accessories shall be in safe and proper operating condition at all times. These include those specified in part 393 of this subchapter and any additional parts and accessories which may affect safety of operation, including but not limited to, frame and frame assemblies, suspension systems, axles and attaching parts, wheels and rims, and steering systems.

(2) Pushout windows, emergency doors, and emergency door marking lights in buses shall be inspected at least every 90 days.

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(b) Required records For vehicles controlled for 30 consecutive days or more, except for a private motor carrier of passengers (nonbusiness), the motor carriers shall maintain, or cause to be maintained, the following record for each vehicle:

(1) An identification of the vehicle including company number, if so marked, make, serial number, year, and tire size. In addition, if the motor vehicle is not owned by the motor carrier, the record shall identify the name of the person furnishing the vehicle;

(2) A means to indicate the nature and due date of the various inspection and maintenance operations to be performed;

(3) A record of inspection, repairs, and maintenance indicating their date and nature; and

(4) A record of tests conducted on pushout windows, emergency doors, and emergency door marking lights on buses.

(c) Record retention. The records required by this section shall be retained where the vehicle is either housed or maintained for a period of 1 year and for 6 months after the motor vehicle leaves the motor carrier's control.

[44 FR 38526, July 2, 1979, as amended at 48 FR 55568, Dec. 16, 1983; 53 FR 18058, May 19, 1988; 59 FR 8753, Feb. 23, 1994; 59 FR 60324, Nov. 23, 1994]

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation Continued
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PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.5 Lubrication.

Every motor carrier shall ensure that each motor vehicle subject to its control is
(a) Properly lubricated; and
(b) Free of oil and grease leaks.

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation Continued
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SECTION 49 CFR 396.7 Unsafe operations forbidden.

(a) *General.* A motor vehicle shall not be operated in such a condition as to likely cause an accident or a breakdown of the vehicle.
(b) *Exemption.* Any motor vehicle discovered to be in an unsafe condition while being operated on the highway may be continued in operation only to the nearest place where repairs can safely be effected. Such operation shall be conducted only if it is less hazardous to the public than to permit the vehicle to remain on the highway.

TITLE 49 TRANSPORTATION

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SECTION 49 CFR 396.9 Inspection of motor vehicles in operation.

(a) *Personnel authorized to perform inspections.* Every special agent of the FHWA (as defined in appendix B to this subchapter) is authorized to enter upon and perform inspections of motor carrier's vehicles in operation.
(b) *Prescribed inspection report.* The Driver-Equipment Compliance Check shall be used to record results of motor vehicle inspections conducted by authorized FHWA personnel.
(c) *Motor vehicles declared "out of service."* (1) Authorized personnel shall declare and mark "out of service" any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An "Out of Service Vehicle" sticker shall be used to mark vehicles "out of service."
(2) No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked "out of service" until all repairs required by the "out of service notice" have been satisfactorily completed. The term "operate" as used in this section shall include towing the vehicle, except that vehicles marked "out of service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of an emergency towing vehicle and an "out of service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the Driver Equipment Compliance Check.
(3) No person shall remove the "Out of Service Vehicle" sticker from any motor vehicle prior to completion of all repairs required by the "out of service notice".
(d) *Motor carrier disposition.* (1) The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his/her arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
(2) Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.
(3) Within 15 days following the date of the inspection, the motor carrier shall
(i) Certify that all violations noted have been corrected by completing the "Signature of Carrier Official, Title, and Date Signed" portions of the form; and
(ii) Return the completed roadside inspection form to the issuing agency at the address indicated on the form and retain a copy at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of the inspection.

(49 U.S.C. 3102; 49 CFR 1.48(b))

[44 FR 38526, July 2, 1979, as amended at 49 FR 38290, Sept. 28, 1984; 57 FR 40964, Sept. 8, 1992]

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation_Continued

CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

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PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.11 Driver vehicle inspection report(s).

(a) *Report required.* Every motor carrier shall require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work on each vehicle operated and the report shall cover at least the following parts and accessories:

_ Service brakes including trailer brake connections

_ Parking (hand) brake

_ Steering mechanism

_ Lighting devices and reflectors

_ Tires

_ Horn

_ Windshield wipers

_ Rear vision mirrors

_ Coupling devices

_ Wheels and rims

_ Emergency equipment

(b) *Report content.* The report shall identify the motor vehicle and list any defect or deficiency discovered by or reported to the driver which would affect safety of operation of the motor vehicle or result in its mechanical breakdown. If no defect or deficiency is discovered by or reported to the driver, the report(s) shall so indicate. In all instances, the driver shall sign the vehicle inspection report. On two-driver operations, only one driver needs to sign the report, provided both drivers agree as to the defects or deficiencies. If a driver operates more than one vehicle during the day, a report shall be prepared for each vehicle operated.

(c) *Corrective action.* Prior to operating a motor vehicle, motor carriers or their agent(s) shall effect repair of any items listed on the vehicle inspection report(s) that would be likely to affect the safety of operation of the vehicle.

(1) Motor carriers or their agent(s) shall certify on the report(s) which lists any defect(s) or deficiency(s) that the defect(s) or deficiency(s) has been corrected or that correction is unnecessary before the vehicle is again dispatched.

(2) Motor Carriers shall retain the original copy of each vehicle inspection report and the certification of repairs for at least 3 months from the date the report was prepared.

(3) A legible copy of the last vehicle inspection report, certified if required, shall be carried on the power unit.

(d) *Exemption.* The rules in this section shall not apply to a private motor carrier of passengers (nonbusiness) operations, driveaway-towaway operations as specified in §396.15, or to any motor carrier operating only one (1) motor vehicle.

[44 FR 38526, July 2, 1979, as amended at 45 FR 46425, July 10, 1980; 53 FR 18058, May 19, 1988; 59 FR 8753, Feb. 23, 1994]

TITLE 49 TRANSPORTATION

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CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

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PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.13 Driver inspection.

Before driving a motor vehicle, the driver shall:

(a) Be satisfied that the motor vehicle is in safe operating condition;

(b) Review the last vehicle inspection report required to be carried on the power unit; and

(c) Sign the report, only if defects or deficiencies were noted by the driver who prepared the report, to acknowledge that the driver has reviewed it and that there is a certification that the required repairs have been performed. The signature requirement does not apply to listed defects on a towed unit which is no longer part of the vehicle combination.

[44 FR 76526, Dec. 27, 1979, as amended at 49 FR 55868, Dec. 16, 1983]

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SECTION 49 CFR 396.15 Driveaway-towaway operations and inspections.

(a) *General.* Effective December 7, 1989, every motor carrier, with respect to motor vehicles engaged in driveaway-towaway operations, shall comply with the requirements of this part. Exception: Maintenance records required by §396.3, the vehicle inspection report required by §396.11, and the periodic inspection required by §396.17 of this part shall not be required for any vehicle which is part of the shipment being delivered.

(b) *Pre-trip inspection.* Before the beginning of any driveaway-towaway operation of motor vehicles in combination, the motor carrier shall make a careful inspection and test to ascertain that:

- (1) The towbar or saddle-mount connections are properly secured to the towed and towing vehicle;
- (2) They function adequately without cramping or binding of any of the parts; and
- (3) The towed motor vehicle follows substantially in the path of the towing vehicle without whipping or swerving.

(c) *Post-trip inspection.* Motor carriers shall maintain practices to ensure that following completion of any trip in driveaway-towaway operation of motor vehicles in combination, and before they are used again, the towbars and saddle-mounts are disassembled and inspected for worn, bent, cracked, broken, or missing parts. Before reuse, suitable repair or replacement shall be made of any defective parts and the devices shall be properly reassembled.

[41 FR 38526, July 2, 1979, as amended at 53 FR 49410, Dec. 7, 1988; 53 FR 49968, Dec. 12, 1988]

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SECTION 49 CFR 396.17 Periodic inspection.

(a) Every commercial motor vehicle shall be inspected as required by this section. The inspection shall include, at a minimum, the parts and accessories set forth in appendix G of this subchapter.

Note: The term commercial motor vehicle includes each vehicle in a combination vehicle. For example, for a tractor semitrailer, fulltrailer combination, the tractor, semitrailer, and the fulltrailer (including the converter dolly if so equipped) shall each be inspected.

(b) Except as provided in §396.23, a motor carrier shall inspect or cause to be inspected all motor vehicles subject to its control.

(c) A motor carrier shall not use a commercial motor vehicle unless each component identified in appendix G has passed an inspection in accordance with the terms of this section at least once during the preceding 12 months and documentation of such inspection is on the vehicle. The documentation may be:

- (1) The inspection report prepared in accordance with paragraph 396.21(a), or
- (2) Other forms of documentation, based on the inspection report (e.g., sticker or decal), which contains the following information:

- (i) The date of inspection;
- (ii) Name and address of the motor carrier or other entity where the inspection report is maintained;
- (iii) Information uniquely identifying the vehicle inspected if not clearly marked on the motor vehicle; and
- (iv) A certification that the vehicle has passed an inspection in accordance with §396.17.

(d) A motor carrier may perform the required annual inspection for vehicles under the carrier's control which are not subject to an inspection under §396.23(b)(1).

(e) In lieu of the self inspection provided for in paragraph (d) of this section, a motor carrier may choose to have a commercial garage, fleet leasing company, truck stop, or other similar commercial business perform the inspection as its agent, provided that business operates and maintains facilities appropriate for commercial vehicle inspections and it employs qualified inspectors, as required by §396.19.

(f) Vehicles passing roadside or periodic inspections performed under the auspices of any State government or equivalent jurisdiction or the FHWA, meeting the minimum standards contained in appendix G of this subchapter, will be considered to have met the requirements

of an annual inspection for a period of 12 months commencing from the last day of the month in which the inspection was performed, except as provided in §396.23(b)(1).

(g) It shall be the responsibility of the motor carrier to ensure that all parts and accessories not meeting the minimum standards set forth in appendix G to this subchapter are repaired promptly.

(h) Failure to perform properly the annual inspection set forth in this section shall cause the motor carrier to be subject to the penalty provisions provided by 49 U.S.C. 521(b).

[53 FR 49410, Dec. 7, 1988; 53 FR 49968, Dec. 12, 1988, as amended at 54 FR 50725, Dec. 8,

1989]

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation_Continued

CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

SUBCHAPTER B FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.19 Inspector qualifications.

(a) It shall be the motor carrier's responsibility to ensure that the individual(s) performing an annual inspection under §396.17 (d) or (e) is qualified as follows:

(1) Understands the inspection criteria set forth in 49 CFR part 393 and appendix G of this subchapter and can identify defective components;

(2) Is knowledgeable of and has mastered the methods, procedures, tools and equipment used when performing an inspection; and

(3) Is capable of performing an inspection by reason of experience, training, or both as follows:

(i) Successfully completed a State or Federal-sponsored training program or has a certificate from a State or Canadian Province which qualifies the person to perform commercial motor vehicle safety inspections, or

(ii) Have a combination of training and/or experience totaling at least 1 year. Such training and/or experience may consist of:

(A) Participation in a truck manufacturer-sponsored training program or similar commercial training program designed to train students in truck operation and maintenance;

(B) Experience as a mechanic or inspector in a motor carrier maintenance program;

(C) Experience as a mechanic or inspector in truck maintenance at a commercial garage, fleet leasing company, or similar facility; or

(D) Experience as a commercial vehicle inspector for a State, Provincial or Federal Government.

(b) Evidence of that individual's qualifications under this section shall be retained by the motor carrier for the period during which that individual is performing annual motor vehicle inspections for the motor carrier, and for one year thereafter. However, motor carriers do not have to maintain documentation of inspector qualifications for those inspections performed either as part of a State periodic inspection program or at the roadside as part of a random roadside inspection program.

[53 FR 49410, Dec. 7, 1988; 53 FR 49968, Dec. 12, 1988]

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation_Continued

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SECTION 49 CFR 396.21 Periodic inspection recordkeeping requirements.

(a) The qualified inspector performing the inspection shall prepare a report which:

(1) Identifies the individual performing the inspection;

(2) Identifies the motor carrier operating the vehicle;

(3) Identifies the date of the inspection;

(4) Identifies the vehicle inspected;

(5) Identifies the vehicle components inspected and describes the results of the inspection including the identification of those components not meeting the minimum standards set forth in appendix G to this subchapter; and

(6) Certifies the accuracy and completeness of the inspection as complying with all the requirements of this section.

(b)(1) The original or a copy of the inspection report shall be retained by the motor carrier or other entity who is responsible for the inspection for a period of fourteen months from the date of the inspection report. The original or a copy of the inspection report shall be retained where the vehicle is either housed or maintained.

(2) The original or a copy of the inspection report shall be available for inspection upon

demand of an authorized Federal, State or local official.

(3) *Exception.* Where the motor carrier operating the commercial motor vehicles did not perform the commercial motor vehicle's last annual inspection, the motor carrier shall be responsible for obtaining the original or a copy of the last annual inspection report upon demand of an authorized Federal, State, or local official.

[54 FR 50725, Dec. 8, 1989]

TITLE 49 TRANSPORTATION

SUBTITLE B Other Regulations Relating to Transportation_Continued

CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

SUBCHAPTER B FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.23 Equivalent to periodic inspection.

(a) The motor carrier may meet the requirements of §396.17 through a State or other jurisdiction's roadside inspection program. The inspection must have been performed during the preceding 12 months. In using the roadside inspection, the motor carrier would need to retain a copy of an annual inspection report showing that the inspection was performed in accordance with the minimum periodic inspection standards set forth in appendix G to this subchapter. When accepting such an inspection report, the motor carrier must ensure that the report complies with the requirements of §396.21(a).

(b)(1) If a commercial motor vehicle is subject to a mandatory State inspection program which is determined by the Administrator to be as effective as §396.17, the motor carrier shall meet the requirement of §396.17 through that State's inspection program. Commercial motor vehicle inspections may be conducted by State personnel, at State authorized commercial facilities, or by the motor carrier under the auspices of a State authorized self-inspection program.

(2) Should the FHWA determine that a State inspection program, in whole or in part, is not as effective as §396.17, the motor carrier must ensure that the periodic inspection required by §396.17 is performed on all commercial motor vehicles under its control in a manner specified in §396.17.

[53 FR 49410, Dec. 7, 1988; 53 FR 49968, Dec. 12, 1988, as amended at 60 FR 38749, July 28, 1995]

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SUBTITLE B Other Regulations Relating to Transportation_Continued

CHAPTER III FEDERAL HIGHWAY ADMINISTRATION,

SUBCHAPTER B FEDERAL MOTOR CARRIER SAFETY REGULATIONS

PART 396 INSPECTION, REPAIR, AND MAINTENANCE

SECTION 49 CFR 396.25 Qualifications of brake inspectors.

(a) The motor carrier shall ensure that all inspections, maintenance, repairs or service to the brakes of its commercial motor vehicles, are performed in compliance with the requirements of this section.

(b) For purposes of this section, *brake inspector* means any employee of a motor carrier who is responsible for ensuring all brake inspections, maintenance, service, or repairs to any commercial motor vehicle, subject to the motor carrier's control, meet the applicable Federal standards.

(c) No motor carrier shall require or permit any employee who does not meet the minimum brake inspector qualifications of §396.25(d) to be responsible for the inspection, maintenance, service or repairs of any brakes on its commercial motor vehicles.

(d) The motor carrier shall ensure that each brake inspector is qualified as follows:

(1) Understands the brake service or inspection task to be accomplished and can perform the task; and

(2) Is knowledgeable of and has mastered the methods, procedures, tools and equipment used when performing an assigned brake service or inspection task; and

(3) Is capable of performing the assigned brake service or inspection by reason of experience, training or both as follows:

(i) Has successfully completed an apprenticeship program sponsored by a State, a Canadian Province, a Federal agency or a labor union, or a training program approved by a State, Provincial or Federal agency, or has a certificate from a State or Canadian Province which qualifies the person to perform the assigned brake service or inspection task (including passage of Commercial Driver's License air brake tests in the case of a brake inspection);

or

(ii) Has brake-related training or experience or a combination thereof totaling at least one year. Such training or experience may consist of:

(A) Participation in a training program sponsored by a brake or vehicle manufacturer or

Sponsor Statement

HB 83

Relating to commercial vehicle inspections

House Bill 83 is introduced in concurrence with the State Ombudsman's legislative recommendations of January 9, 1997. Based on the conclusions and recommendations in various reports of investigations he has conducted over the past year, the Ombudsman submits an annual report to the Legislature, suggesting legislative changes that would remedy or help to ameliorate problems he has identified.

One such recommendation is contained in this year's report:

"(4) Commercial Vehicle (CMV) Inspections. The Legislature should consider legislation that would replace the mandatory semi-annual commercial vehicle inspection requirement with an annual program--a change which still would meet federal requirements. The Alaska State Troopers' Commercial Vehicle Enforcement Unit (AST/CVE) is seriously understaffed to meet the existing statutory mandate. Consequently, neither the CVE unit nor the CMV operators can meet the requirements of AS 28.32.010. A change to annual rather than semi-annual CMV inspections might be more realistic in light of constrained fiscal resources and still would enable the state to qualify for federal funding for this program. (Ombudsman Complaint A093-1469, Department of Public Safety, Division of Alaska State Troopers.)"

It is imperative that the Legislature respond to this documented problem in the law. The Ombudsman has done his job; it is now up to us to solve the problem by changing the law.

**Sponsor
Statement**

Sectional Analysis

HB 83

Relating to commercial motor vehicle inspections.

Section 1 amends AS 28.32.010(a) by changing the requirement that commercial motor vehicles be inspected twice a year, to require an inspection once a year. This section also repeals an effective date from 10 years ago which is no longer operative.

Section 2 provides an effective date of July 1, 1997.

**Sectional
Analysis**

CS FOR HOUSE BILL NO. 83(TRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE TRANSPORTATION COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVE MARTIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to commercial vehicle inspections; and providing for an effective
2 date."

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

4 * Section 1. AS 28.32.010 is amended to read:

5 Sec. 28.32.010. Commercial [MOTOR] vehicle safety inspections; citations.

6 (a) A commercial [MOTOR] vehicle may not be operated [AFTER JANUARY 1,
7 1986] without a certificate of inspection. An owner or operator of a commercial
8 [MOTOR] vehicle shall renew a certificate of inspection at least annually as required
9 by law. An owner or operator of a commercial vehicle shall provide proof of
10 annual inspection upon demand of a peace officer or employee of the department
11 authorized by the commissioner to enforce this section [SEMI-ANNUALLY AT AN
12 OFFICIAL INSPECTION STATION UNDER AS 28.32.030. THE OWNER MAY
13 RENEW A CERTIFICATE OF INSPECTION AT ANY TIME DURING THE
14 OFFICE HOURS OF THE INSPECTION STATION. AN OWNER OF A

1 COMMERCIAL MOTOR VEHICLE SHALL DISPLAY A CURRENT STICKER OF
 2 INSPECTION VISIBLE FROM OUTSIDE THE VEHICLE IN A LOCATION
 3 DETERMINED BY THE DIVISION].

4 (b) A peace officer, or an employee of the department who is authorized by
 5 the commissioner to enforce both hazardous materials and commercial vehicle safety
 6 regulations, may issue a citation under AS 12.25.180 - 12.25.230 to a person who
 7 violates a regulation adopted under AS 28.05.011(2). [AN EMPLOYEE OF THE
 8 DEPARTMENT WHO IS AUTHORIZED BY THE COMMISSIONER TO ENFORCE
 9 BOTH HAZARDOUS MATERIALS AND COMMERCIAL VEHICLE SAFETY
 10 REGULATIONS MAY NOT TAKE A PERSON INTO CUSTODY UNDER
 11 AS 12.25.180(b).]

12 * Sec. 2. AS 28.32.040 is repealed and reenacted to read:

13 **Sec. 28.32.040. Commercial vehicle inspectors.** A person may not conduct
 14 commercial vehicle inspections unless qualified under law.

15 * Sec. 3. AS 28.32.050 is repealed and reenacted to read:

16 **Sec. 28.32.050. Issuance of certificate of inspection.** A person conducting
 17 annual commercial vehicle inspections under AS 28.32.010 shall issue a certificate of
 18 inspection to the owner or operator after determining the vehicle is in a safe and
 19 mechanically sound condition as required by law. The owner or operator of a
 20 commercial vehicle shall keep a record of the annual inspection of the vehicle. A
 21 peace officer or employee of the department authorized by the commissioner to enforce
 22 this chapter may audit the records of a person who performs safety inspections at any
 23 time during regular business hours.

24 * Sec. 4. AS 28.32.080 is amended to read:

25 **Sec. 28.32.080. Regulations.** The commissioner of public safety shall adopt
 26 procedural regulations appropriate to achieve compatibility with federal law [OTHER
 27 WESTERN STATES] and procedural regulations necessary to implement this chapter.

28 * Sec. 5. AS 28.32.090 is amended to read:

29 **Sec. 28.32.090. Criminal penalty.** Except for a violation of AS 28.32.080
 30 or a regulation adopted under AS 28.32.080, a [A] person who violates a provision
 31 of this chapter is guilty of a class A [B] misdemeanor.

1 * Sec. 6. AS 28.32.900(1) is amended to read:

2 (1) "commercial [MOTOR] vehicle" means a [MOTOR] vehicle [OR
3 A COMBINATION OF A MOTOR VEHICLE AND ONE OR MORE OTHER
4 VEHICLES]

5 (A) used to transport passengers or property for commercial
6 purposes;

7 (B) used upon a highway or vehicular way; and

8 (C) which

9 (i) has a gross vehicle weight rating or gross
10 combination weight rating greater than 10,000 pounds;

11 (ii) is designed to transport more than 15 passengers,
12 including the driver; or

13 (iii) is used in the transportation of materials found by
14 the United States Secretary of Transportation to be hazardous for
15 purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation
16 Act);

17 (D) except that the following vehicles meeting the criteria in
18 (A) - (C) of this paragraph are not commercial vehicles:

19 (i) emergency or fire equipment that is necessary to the
20 preservation of life or property;

21 (ii) farm vehicles that are controlled and operated by a
22 farmer; used to transport agricultural products, farm machinery, or farm
23 supplies to or from that farmer's farm; not used in the operations of a
24 common or contract motor carrier; and used within 150 miles of the
25 farmer's farm;

26 (iii) school buses;

27 (iv) vehicles owned and operated by the federal
28 government unless the vehicle is used to transport property of the
29 general public for compensation in competition with other persons who
30 own or operate a commercial motor vehicle subject to this chapter [,]
31 and, except to the extent that regulation of vehicles operated by the

1 federal government, is permitted by federal law; and
2 (v) vehicles used exclusively for purposes other than
3 commercial purposes;

4 * Sec. 7. AS 28.32.030, 28.32.060, 28.32.070, and 28.32.900(3) are repealed.

5 * Sec. 8. This Act takes effect July 1, 1997.

TITLE 28. MOTOR VEHICLES

Chapter 28.32. COMMERCIAL MOTOR VEHICLE SAFETY INSPECTIONS

Sec. 28.32.010. Commercial motor vehicle safety inspections; citations.

(a) A commercial motor vehicle may not be operated after January 1, 1986 without a certificate of inspection. An owner of a commercial motor vehicle shall renew a certificate of inspection at least semi-annually at an official inspection station under AS 28.32.030. The owner may renew a certificate of inspection at any time during the office hours of the inspection station. An owner of a commercial motor vehicle shall display a current sticker of inspection visible from outside the vehicle in a location determined by the division.

(b) A peace officer, or an employee of the department who is authorized by the commissioner to enforce both hazardous materials and commercial vehicle safety regulations, may issue a citation under AS 12.25.180 - 12.25.230 to a person who violates a regulation adopted under AS 28.05.011 (2). An employee of the department who is authorized by the commissioner to enforce both hazardous materials and commercial vehicle safety regulations may not take a person into custody under AS 12.25.180(b).

Sec. 28.32.020. Exemptions. [Repealed, sec. 3 ch 109 SLA 1990].

Repealed or Renumbered

Sec. 28.32.030. Commercial motor vehicle inspection station permits.

(a) A person may not operate an official commercial motor vehicle inspection station without a permit from the division. The division shall approve an application for permit to operate an inspection station if

(1) the division determines the inspection station has proper equipment and competent personnel; and

(2) a commercial motor vehicle inspector certified under AS 28.32.040 is employed at the inspection station.

(b) After the division approves an application for a permit to operate an official inspection station under (a) of this section, it shall provide the applicant with a permit and certificates of inspection.

(c) Upon receipt of a permit from the division under (b) of this section, the operator of an official commercial motor vehicle inspection station shall post the permit in a conspicuous place at the location designated by the division.

(d) The division may enter the premises of the operator of an official commercial motor vehicle inspection station during the station's business hours to inspect the work of a certified commercial motor vehicle inspector or to determine if the operator continues to meet the requirements of this section.

(e) The division shall suspend or revoke a permit of an operator of an official commercial motor vehicle inspection station if the operator fails to meet the requirements of this section.

(f) Upon notice of suspension or revocation of a permit under (e) of this section, the operator of an official commercial motor vehicle inspection station shall immediately terminate all inspection activities and, on demand by the division, return the permit and all unissued certificates of inspection. The division shall issue a receipt for all returned certificates of inspection.

(g) If a permit is suspended or revoked under (e) of this section, the division shall give the holder of the permit a hearing within 10 days after receipt of a written request filed with the division within 30 days after suspension or revocation.

(h) A permit to operate an official commercial motor vehicle inspection station may not be assigned, transferred, or used at a location other than the location designated by the division.

Sec. 28.32.040. Certification of commercial motor vehicle inspectors.

(a) A person may not conduct a commercial motor vehicle inspection at an official inspection station under AS 28.32.030 unless certified as a commercial motor vehicle inspector by the division.

(b) The division may suspend or revoke the certification issued to a commercial motor vehicle inspector under (a) of this section if the commercial motor vehicle inspector improperly conducts inspections or fails to comply with a provision of this section.

(c) If a certificate is revoked or suspended under (b) of this section the division shall give a commercial motor vehicle inspector a hearing within 10 days after the receipt of a written request filed with the commissioner within 30 days after revocation or suspension.

Sec. 28.32.050. Issuance of certificate of inspection.

(a) A person operating an official commercial motor vehicle inspection station shall issue a certificate of inspection to the owner of a commercial motor vehicle after determining that the commercial motor vehicle is in a safe and mechanically sound condition.

(b) A person operating an official commercial motor vehicle inspection station shall keep a record of each inspection performed at the station. The division may audit the records of an official inspection station at any time.

Sec. 28.32.060. Falsely representing to be an official station.

(a) A person may not represent a place as an official commercial motor vehicle inspection station unless the station is operating under a valid permit issued by the division under AS 28.32.030 .

(b) A person may not issue a certificate of inspection under AS 28.32.050 unless the person holds a valid permit under AS 28.32.030 .

Sec. 28.32.070. Counterfeit certificates of inspection.

(a) A person may not make, issue, or knowingly use an imitation or counterfeit of an official certificate of inspection.

(b) A person may not knowingly display or issue a certificate of inspection on a commercial motor vehicle unless the commercial motor vehicle has met the requirements of AS 28.32.050 (a).

Sec. 28.32.080. Regulations.

The commissioner of public safety shall adopt procedural regulations appropriate to achieve compatibility with other western states and procedural regulations necessary to implement this chapter.

Sec. 28.32.090. Criminal penalty.

A person who violates a provision of this chapter is guilty of a class B misdemeanor.

Sec. 28.32.900. Definitions. In this chapter

(1) "commercial motor vehicle" means a motor vehicle or a combination of a motor vehicle and one or more other vehicles

(A) used to transport passengers or property;

(B) used upon a highway or vehicular way; and

(C) which

(i) has a gross vehicle weight rating or gross combination weight rating greater than 10,000 pounds;

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used in the transportation of materials found by the United States Secretary of Transportation to be hazardous for purposes of 49 U.S.C. 1801 - 1813 (Hazardous Materials Transportation Act);

(D) except that the following vehicles meeting the criteria in (A) - (C) of this paragraph are not commercial vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

(ii) farm vehicles that are controlled and operated by a farmer; used to transport agricultural products, farm machinery, or farm supplies to or from that farmer's farm; not used in the operations of a common or contract motor carrier; and used within 150 miles of the farmer's farm;

(iii) school buses;

(iv) vehicles owned and operated by the federal government unless the vehicle is used to transport property of the general public for compensation in competition with other persons who own or operate a commercial motor vehicle subject to this chapter, and except to the extent that regulation of vehicles operated by the federal government is permitted by federal law; and

(v) vehicles used exclusively for purposes other than commercial purposes;

(2) "commercial purposes" means activities for which a person receives direct monetary compensation or activities for which a person receives no direct monetary compensation but which are incidental to and done in furtherance of the person's business;

(3) "division" means the division of Alaska State Troopers;

(4) "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle, except that if a value has not been specified by the manufacturer, the gross combination weight rating is determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and the load on the towed unit;

(5) "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle.