

**HB**

**280**

**HFIN**

**FILE**



# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 280  
 (H) Publish Date: 4/30/03

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
 Title An act relating to the regulation of BRU Motor Vehicles  
commercial motor vehicles.... Component Motor Vehicles  
 Sponsor (H) FIN  
 Requester (H) TRA Component No. 2348

**Expenditures/Revenues (Thousands of Dollars)**

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<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>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<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 (FY2003) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

This bill has no fiscal impact on DMV.

Prepared by: Charles R. Hosack Phone 269-5559  
 Division: Motor Vehicles Date/Time 4/28/03  
 Approved by: Mike Miller, Commissioner Date 4/28/2003  
 Agency: Department of Administration

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adopted NO OBJ  
AMENDMENT 1

TO BE OFFERED IN THE HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE CROFT

TO: HB 280

Title amendment

Page 1, line 3, after "motor vehicles;:

Insert: "moves authority for commercial motor vehicle regulation from the  
Department of Public Safety to the Department of Transportation and Public  
Facilities;"

## **Bill Analysis**

### **“An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money... “**

#### **Section 1. AS 19.10.060(c) repeal and reenact**

##### **Existing statute language:**

AS 19.10.060(c) The department shall adopt regulations necessary to implement a commercial motor vehicle safety inspection program needed to avoid loss or withholding of federal highway money.

##### **Proposed statute language in Sec. 1**

AS 19.10.060(c) Except for requirements relating to a commercial motor vehicle driver's licensing program under AS 28, the department shall adopt regulations under AS 44.62 (Administrative Procedures Act) that are necessary to implement requirements imposed by federal statute or regulation that relate to commercial motor vehicles and that are necessary to avoid loss or withholding of federal highway money.

##### **Effect of changes**

Existing statutes allow the Department of Transportation and Public Facilities (DOT&PF) to adopt regulations relating to "...a commercial motor vehicle safety inspection program...". The proposed language allows the department to adopt regulations relating to all commercial vehicle activities excluding requirements relating to a commercial motor vehicle driver's licensing program. The intent of Executive Order 98, issued by then Governor Knowles, was to consolidate all truck regulation activities into DOT&PF with the single exception of the commercial motor vehicle driver's licensing program. The repeal and reenactment of AS 19.10.060(c) accomplishes that objective.

#### **Section 2. AS 28.33.130(a) amend**

Proposed change will add the prohibition against operating a commercial motor vehicle after being placed out of service under a regulation adopted under AS 19.10.060(c).

#### **Section 3. AS 28.33.140(a) amend**

Proposed change will provide for immediate disqualification from driving a commercial motor vehicle for the periods set out in this section for driving after being placed out of service in violation of regulations adopted under AS 19.10.060(c).

Bill Analysis

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money..."

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**Section 4. AS 28.33.190(10) amend**

Proposed change defines an "out of service order" to include an order issued under regulations adopted under AS 19.10.060(c),

**Section 5. AS 28.05.011(a)(8) repealed.**

AS28.05.011(a)(8) provides the Commissioner of Public Safety authority to adopt regulations necessary to implement requirements imposed by federal law or regulation that relate to commercial motor vehicles and that are needed to avoid loss or withholding of federal highway money, other than requirements relating to a commercial motor vehicle driver's licensing program or a commercial motor vehicle safety inspection program. Sec. 5 repeals this paragraph as the adoption authority will now reside in DOT&PF and DOA.

**Section 6. The uncodified law of the State of Alaska is amended.**

Adds a new section to allow for changes in the references to the Alaska Administrative Code in the traffic bail forfeiture schedule for certain commercial motor vehicle offenses.

**Section 7. The uncodified law of the State of Alaska is amended.**

Adds a new section that provides for a transition period to allow current DPS regulations to continue in force until the new regulations are adopted by DOT&PF.

**Section 8. The uncodified law of the State of Alaska is amended.**

Adds a new section that provides that Sections 1-5 and 7 take effect only if Section 6 receives the two-thirds majority vote of each house required by art. IV, sec.15, Constitution of the State of Alaska.

**Section 9. Sets effective date for Section 7.**

**Section 10. Sets effective date for the act.**

## Bill Analysis

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money..."

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### **SUMMARY**

Section 1 of the bill accomplishes a necessary change in regulation adoption authority. Prior to the consolidation of commercial motor vehicle regulation and enforcement into DOT&PF, the Department of Public Safety had authority to adopt CMV regulations for driver/vehicle safety and hazardous materials transport standards. Inadvertently, this authority was not transferred. This bill corrects that oversight.

Federal Motor Carrier Safety Administration regulations provide that a state becomes ineligible for Basic Program or Incentive funds under the Motor Carrier Safety Assistance Program for failure to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of its effective date. In FFY2003, Alaska will receive \$685.5 in Basic Program and Incentive Funds.

Passage of this bill is critically important as the state's adoption of federal regulations pertaining to CMV operations, driver/vehicle safety standards and hazardous materials transport have not been updated since 1995. As you can see, we are out of compliance. The Department of Transportation and Public needs the authority to adopt these regulations to avoid the loss or withholding of federal funding. Loss of these funds through failure to pass this legislation and the subsequent failure to adopt the current regulations will virtually eliminate our commercial vehicle safety enforcement effort.

The bill provisions correcting the regulation adoption authority problems and supporting the language in existing statute have been supported in the past by both the Alaska Trucking Association and Teamsters Local 959. The Department of Public Safety also supports this legislation.



Aves D. Thompson, Director  
Measurement Standards and  
Commercial Vehicle Enforcement  
Alaska Department of Transportation  
and Public Facilities  
907.341.3210

## Bill Analysis

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money..."

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### Applicable Code of Federal Regulation references:

**49 CFR Sec. 350.335(b)** A State that fails to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of its effective date will be deemed to have incompatible regulations and will not be eligible for Basic Program nor Incentive Funds.

**49 CFR Sec. 355** promotes adoption and enforcement of state laws and regulations pertaining to commercial motor vehicles that are compatible with appropriate parts of the Federal Motor Carrier Safety Regulations (FMCSRs).

**49 CFR Sec. 355.5**, defines Compatible or Compatibility as meaning that State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs; and that State laws applicable to intrastate commerce are either identical to, or have the same effect as, the FMCSRs or fall within the established limited variances under Secs. 350.341, 350.343, and 350.345 of this subchapter. Federal Hazardous Materials Regulations (FMHRs) means those safety regulations which are contained in parts 107, 171-173, 177, 178 and 180, except part 107 and Secs. 171.15 and 171.16. Federal Motor Carrier Safety Regulations (FMCSRs) means those safety regulations which are contained in parts 390, 391, 392, 393, 395, 396, and 397 of this subchapter.

Alaska State Legislature  
House Finance Committee

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**Sponsor Statement for HB 280  
Commercial Motor Vehicles: Regulations**

**“An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date.”**

House Bill 280 would transfer certain authority to regulate commercial motor vehicles from the Department of Public Safety (DPS) to the Department of Transportation and Public Facilities (DOT&PF). This change is needed to avoid losing federal highway money. The bill also directly amends Rule 43.1 of the Alaska Rules of Administration.

Under current law, the authority to adopt regulations regarding commercial motor vehicles is divided among: the Department of Administration (DOA) for licensing of drivers of commercial motor vehicles; the DOT&PF for matters relating to commercial motor vehicle inspections; and the DPS for all matters relating to commercial motor vehicles. Under this bill, the authority to adopt regulations necessary to avoid the loss or withholding of federal highway money would be vested in DOT&PF, except for matters that relate to licensing of drivers of commercial motor vehicles.

The bill corrects an oversight that occurred when implementing Executive Orders 98 and 99 in 1997. EO 98 transferred the responsibility for commercial motor vehicle safety inspections from the DPS to the DOT&PF. EO 99 transferred most functions related to motor vehicles found in Title 28 from DPS to the Department of Administration (DOA). After the issuance of EO's 98 and 99, DPS retained the authority to adopt regulations related to commercial motor vehicles, except for safety inspections and driver licensing. HB280 would transfer the remaining regulation authority in DPS relating to commercial motor vehicles to DOT&PF. The Department needs the authority to adopt these regulations to avoid the loss or withholding of federal funding.

Federal Motor Carrier Safety Administration regulations provide that a state becomes ineligible for Basic Program or Incentive funds under the Motor Carrier Safety Assistance Program for failure to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of its effective date. Since the state's

adoption of federal regulations pertaining to CMV operations, driver/vehicle safety standards and hazardous materials transport has not been updated since 1995, Alaska is out of compliance.

Alaska will receive \$685.5 in Basic Program and Incentive Funds in FFY2003. Loss of these funds through failure to pass this legislation and the subsequent failure to adopt the current regulations will virtually eliminate commercial vehicle safety enforcement effort in Alaska.

The Alaska Trucking Association, Teamsters Local 959 and the Associated General Contractors of Alaska support the bill provisions correcting the regulation adoption authority problems and supporting the language in existing statute. The Departments of Public Safety and Administration also support this legislation.

*Contact: Tim Barry, Aide to Representative Bill Williams, at (907) 465-3424*