

SB

298

SFIN

FILE

SB 298

was referred to the
Senate Finance
Committee

Hearing(s) were held

The bill did not move
from Committee

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB298CS-DPS-ABWE-3-15-04
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title Act repealing ban on off-rad veh on Dalton Hwy RDU Alaska State Troopers
 Component Alaska Bureau of Wildlife Enf.
 Sponsor Sen. Seekins
 Requester (S) Finance Component No. 2746

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
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						
-----------------------------	--	--	--	--	--	--

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

AS 19.40.210 addresses the Dalton Highway and currently restricts access unless conducting oil exploration; mining; or traveling across the highway corridor from land outside the corridor to access land outside the other side of the corridor. There is no penalty provision in this statute, therefore no enforcement activity has routinely taken place. This proposal would eliminate the off-road vehicle restriction south of milepost 235 of the highway allowing off-road vehicles access to these areas. The restrictions would still exist north of milepost 235.

The Trooper assigned to the Coldfoot Post will patrol the affected area and perform enforcement activities to include wildlife and roadway related statutes and regulations.

Prepared by: Lt. Al Storey Phone 269-4532
 Division Alaska State Troopers Date/Time 3/15/04 3:59 PM
 Approved by: Commissioner William Tandeske Date 3/15/2004
 Agency Department of Public Safety

FISCAL NOTE

**STATE OF ALASKA
2004 LEGISLATIVE SESSION**

BILL NO. SB298CS-DPS-ABWE-3-15-04

ANALYSIS CONTINUATION

Under current provisions of other regulations, hunting is still restricted within 5 miles of the highway, and therefore the use of off-road vehicles will not be involved in hunting activities.

While there will be an increase by users of off-road vehicles in this area, there is no anticipated fiscal impact to the Alaska State Troopers. If additional resources are needed to manage issues that might arise as a result of passage of this proposal, assets will be assigned as needed from the Fairbanks area as is typically done during periods of increased activities.

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSSB 298(TRA)
(S) Publish Date: 3/10/04

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
Title Off-Road Vehicles on Dalton Highway RDU Administration & Support
Component Commissioner's Office
Sponsor Seekins
Requester Senate Transportation Component No. 530

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
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						
-----------------------------	--	--	--	--	--	--

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

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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nona Wilson Phone 465-6973
Division: Legislative Liaison Date/Time 2/20/04 9:06 AM
Approved by: John MacKinnon Date 2/20/2004
Agency: Deputy Commissioner

ALASKA STATE SENATE

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-2327
(907) 465-5241 Fax



Interim:
119 N. Cushman, Suite 201
Fairbanks, Alaska 99701
(907) 456-8161
Senator_Ralph_Seekins@legis.state.ak.us

Senator Ralph Seekins
District D

Senate Bill 298 Sponsor Statement

“An Act relating to the use of off-road vehicles within five miles of the right-of-way of the James Dalton Highway.”

A substantial portion of Alaska's landmass lies on the north side of the Yukon River. Only one highway exists in that entire area – the James Dalton Highway – still referred to by many as the “haul road” to Prudhoe Bay. Senate Bill 298 removes from prohibition the use of off-road vehicles within the five mile right-of-way of the James Dalton Highway up to mile 235.

Current law, with very limited exceptions, bans the use of off-road vehicles within five miles of the right-of-way of the Dalton Highway starting at mile 57 — the Yukon River crossing — and extending 357 miles north to the Arctic Ocean. This law (AS 19.40.210) essentially prohibits access for average Alaskans to recreate on tens of millions of acres of public lands that would otherwise be open to their use.

But, the fact is, the state has not actively enforced this statutory ban. Nevertheless, this has not stopped the federal government from co-opting the state law. Using the Alaska statute cited above, the Bureau of Land Management is closing long existing trap lines and threatening to tear down cabins unless the trappers resort to non-motorized access.

Other reports of BLM officers warning or citing recreational riders or state highway maintenance employees under this state statute are numerous. All this because the BLM says that state law regulating off-highway vehicle use prevails when it is more restrictive than federal regulations.

Senate Bill 298 will allow these public lands to be accessed from the Dalton Highway by lifting the ban between mileposts 57 and 235. This opens a massive area bounded by the Yukon River to the south and the Brooks Range to the north.

The Dalton Highway was first opened to public use during the Hickel administration. Now, ten years later, the time has come to open the right-of-way for use by snow machiners and the like. Alaskans deserve access to their lands and there is no sensible reason to continue this unwarranted, antiquated ban.



Sec. 19.40.210. Prohibition of off-road vehicles.

Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to

- (1) off-road vehicles necessary for oil and gas exploration, development, production, or transportation;
- (2) a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to the mining claim; or
- (3) the use of a snow machine to travel across the highway corridor from land outside the corridor to access land outside the other side of the corridor; this paragraph does not permit the use of a snow machine for any purpose within the corridor if the use begins or ends within the corridor or within the right-of-way of the highway or if the use is for travel within the corridor that is parallel to the right-of-way of the highway; in this paragraph, "highway corridor" means land within five miles of the right-of-way of the highway.

Sec. 19.40.290. Definitions.

In this chapter

- (1) *[Repealed, Sec. 53 ch 30 SLA 1996].*
- (2) "highway" means the secondary highway from the Yukon River to the Arctic Ocean.

Chapter 19.45. MISCELLANEOUS PROVISIONS; DEFINITIONS AND PENALTIES

Sec. 19.45.001. Definitions.

In AS 19.05 - AS 19.40

- (1) "commissioner" means the commissioner of transportation and public facilities;
- (2) "construction" or any derivation means construction, reconstruction, alteration, improvement or major repair;
- (3) "controlled-access facility" means a highway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have either no right or easement or only a controlled right or easement of access, light, air, or view;
- (4) "cost of change, relocation, or removal" means the entire cost incurred by the utility properly attributed to the change, relocation, or removal of a facility, less any costs for improvements or upgrading over and above the cost of a functionally equal facility; if a facility is to be relocated and replaced with new equipment, there shall also be subtracted from the entire cost any salvage value derived from the old facility;
- (5) "department" means the Department of Transportation and Public Facilities;

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



DALTON HIGHWAY

(Figure Three)





United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Northern Field Office
1150 University Avenue
Fairbanks, Alaska 99709-3844
<http://www.ak.blm.gov>



In reply refer to
F-93144
2920 (025)

CERTIFIED MAIL RETURN RECEIPT

JAN 20 2004

Ace Patrick Calloway
P.O. Box 70630
Fairbanks, Alaska 99707

Dear Mr. Calloway;

This letter concern. permit F-93144 that you have with BLM for parking, access and a tent camp at the South Fork of the Koyukuk River. This permit expired on October 31, 2003.

We have become aware of Alaska Statute 19.40.210 that states regarding the Dalton Highway:

Off-road vehicles are prohibited on land within five miles of the right-of-way of the highway. However, this prohibition does not apply to

(1) off-road vehicles necessary for oil and gas exploration, development, production, or transportation;

(2) a person who holds a mining claim in the vicinity of the highway and who must use land within five miles of the right-of-way of the highway to gain access to the mining claim; or

(3) the use of a snow machine to travel across the highway corridor from land outside the corridor to access land outside the other side of the corridor; this paragraph does not permit the use of a snow machine for any purpose within the corridor if the use begins or ends within the corridor or within the right-of-way of the highway or if the use is for travel within the corridor that is parallel to the right-of-way of the highway; in this paragraph, "highway corridor" means land within five miles of the right-of-way of the highway.

The third subsection was added in 2000, and seems to make the permits we have issued you and others for snowmachine access off the Dalton Highway a violation of state law. Generally, state law regulating off-highway vehicle use prevails when it is more restrictive than our regulations. We have requested a legal opinion and guidance from our Solicitor's Office.

Meanwhile, we have decided to extend your permit and the others to May 1 to finish the trapping season, provided you pay the rent and are in compliance with the permit.

The rental to extend the permit to May 1 will be the minimum of \$100 in the permit.

We note that you have not submitted your report for the last half of the 2001, and all of the 2002 and 2003 season.

We also note that you do not have the \$1,000 bond required by the permit.

We hope to have a Solicitor's Opinion and guidance before May 1. If the outcome is that we cannot issue permits for snowmachine use off the Dalton Highway, you will have to use non-motorized access in the future. If non-motorized access is not practical or possible, you will need to tear down your cabin at the end of the season.

We offer to extend your permit to May 1, 2004, after you submit the \$100 rental, use reports, and proof of bonding. This offer expires thirty days after you receive this letter.

Please call Boyce Bush at 474-2334 or Martha Woodworth at 474-2323 if you have any questions.

Sincerely,

 AM - NFO
Robert W. Schneider
Northern Field Office Manager

Support for SB 298 (Haul Road Corridor)

Subject: Support for SB 298 (Haul Road Corridor)

Date: Tue, 24 Feb 2004 05:28:14 -0900

From: Pete Buist <grizzlybear@mosquionet.com>

To: Senator Ralph Seekins <Senator_Ralph_Seekins@Legis.state.ak.us>

Dear Senator Seekins,

Please add my name to those in SUPPORT of SB 298 which would inject a bit more common sense into the management of access to public lands along the Dalton Highway.

Of particular concern to me are current enforcement actions being taken against trappers who are losing their access to traditional traplines along the corridor. BLM has been actively trying to get rid of them by burning cabins and informing the trappers that they can only get to their traplines on foot.

If I thought that the current situation was actually protecting endangered resources, I would support it. But it appears to me that the trappers are not causing any real conservation problems by using snowmachines and staying in cabins during the winter months when few tourists are around anyway.

Sincerely,

Pete Buist
Fairbanks

Members of the Senate Transportation Committee,

I will be out of town and unable to attend the teleconference to testify on SB 298 on March 4, but would like to offer the following comments for your consideration.

In my opinion this bill is simply an issue of whether or not the public should have reasonable access to millions of acres of public land. I would argue that they should.

It seems from a lot of the testimony I heard last week that most of the people are unaware of what the actual effects of this bill are. There were several people testifying about how passage of this bill would have such a negative impact on hunting in the area, while in reality passing this bill doesn't change anything related to hunting north of the Yukon River. Hunting with a firearm within the Dalton Hwy. Corridor would still be prohibited by AS 16.05.789. Using an off road vehicle to transport hunters or game in the corridor would still be prohibited by 5 AAC 92.530 (7) unless you start outside the corridor and need to cross it to access lands on the other side. In other words, you still would not be able to start a trip from the Dalton Hwy. using an ORV for any hunting purposes. Passage of SB 298 does nothing to change either this statute or regulation, effectively making no change in the current situation in that area in regards to hunting.

There was also some testimony concerning harassment of wildlife by ORV users. This concern is also without merit in my opinion as regulation 5 AAC 92.080 (5) would still be in effect and prohibit harassing game with a motor vehicle or using a motorized vehicle to drive, herd, or molest game. Passage of SB 298 does nothing to change this from its current state.

To the people who were concerned over potential damage to the tundra by 4-wheelers running all over the place I would like to point out the fact that the first 250 miles of the corridor runs through BLM land whose regulations regarding ORV use only allow snowmachines with a 10 or 12 inch minimum snow cover requirement. To anyone who thinks this is still not adequate protection, I would point to the area from along the Denali Hwy. all the way down to the Glenn Hwy. where snowmachines are going all over the place every winter, but come summer when the snow melts there is virtually no evidence of their activities. The remaining 105 miles of the corridor from approximately Slope Mtn. on the North Slope to Prudhoe Bay runs through State land that has no such regulation at the present time. However, because ORVs would still be prohibited for hunting purposes and the overall terrain is not conducive to ORV use without snow cover this is probably not an issue. If DNR has serious concerns about even the slight possibility of damage occurring to the tundra during the non-snow covered time of year, they could certainly adopt regulations along the same lines as BLM. Specific regulations such as these would seem to be a far more palatable way of managing the land use rather than the current situation of not allowing any ORV use at any time for any reason (except to access your mining claim or for oil exploration and recovery).

Once people realize there will still be adequate protection for the land and wildlife of the area and that this is simply an issue of public access to public land, everyone I have spoken to about this is for passage of this bill. Then, add in the factor of a positive effect on the local economy (fuel sales, food, lodging, guided tours, etc.), and I believe even a fair number of the local population is for passage of this bill.

In conclusion, I would like to thank you for taking the time to read my comments. I would urge passage of SB 298 repealing AS 19.40.210 in its entirety. Failing that, I would urge amending AS 19.40.210 to allow use of snow machines for non-hunting activities. There is no reason for having a blanket prohibition of ORV use for the entire Dalton Hwy. Corridor when the land managing agencies involved have regulatory tools available to manage use for the best interest of the environment and the public. It is time to finally allow the public reasonable access to the millions of acres of public land that are available along the Dalton Hwy.

Sincerely,

A handwritten signature in cursive script that reads "David Stoller".

David Stoller
880 Hickman
North Pole AK. 99705
(907) 488-0585
stoller@eci.net

Comments on SB 298

Members of the Senate Finance Committee,

I will be out of town and unable to attend the teleconference to testify on SB 298 on March 25, but would like to offer the following comments for your consideration.

In my opinion this bill is simply an issue of whether or not the public should have reasonable access to millions of acres of public land. I would argue that they should.

It seems from a lot of the testimony offered during the hearings on this bill in the Transportation Committee that people are unaware of what the actual effects of this bill are. There was a lot of testimony both for and against this bill that centered on the perceived effects that passage of this bill would have on hunting (both sport and subsistence) north of the Yukon River. The fact is that this bill has nothing to do with hunting. Hunting with a firearm within the Dalton Hwy. Corridor would still be prohibited by AS 16.05.789. Using an off road vehicle to transport hunters or game within the corridor would still be prohibited by 5 AAC 92.530 (7)(B) unless you start outside the corridor and need to cross it to access lands on the other side (just like it is now). In other words, you still would not be able to start a trip from the Dalton Hwy. using an ORV for any hunting purposes. Passage of SB 298 does nothing to change either this statute or regulation, effectively making no change in the current situation in that area in regards to hunting.

There was also some testimony concerning harassment of wildlife by ORV users. This concern is also without merit in my opinion as regulation 5 AAC 92.080 (5) would still be in effect which prohibits harassing game with a motor vehicle or using a motorized vehicle to drive, herd, or molest game. Passage of SB 298 does nothing to change this from its current state.

In response to testimony questioning the effects of additional ORV traffic on caribou migration patterns, I don't believe there is any documentation that can be cited showing that this is justifiable concern. It seems to me that caribou usually don't seem to care about human activity as long as you aren't shooting at them (which you still won't be able to do if starting from the road as explained above). I know from personal experience that the caribou I have encountered while snowmachining don't really show any sign of disturbance when I ride by them as close as a couple of hundred yards. Of course this was during a closed hunting season so they weren't worried about getting shot. I find it hard to believe that a few snowmachines traveling around, mostly from mid-February to mid-April, are going to have any effect on migration patterns of an entire herd. Certainly no more effect than the ORV use that already exists from the local residents outside the corridor.

Regarding testimony concerning the potential damage to the tundra by 4-wheelers running all over the place, I would like to point out the fact that now that SB 298 has

been amended to only apply to the corridor up to Milepost 235, the entire length under consideration runs through land managed by BLM. BLM's natural resource plan for that area only allows ORV use in the winter with adequate snowcover. To anyone who thinks this is still not adequate protection, I would point to the area from along the Denali Hwy. all the way down to the Glenn Hwy. where ORVs are going all over the place every winter, but come summer when the snow melts there is virtually no evidence of their activities. Specific regulations such as this would seem to be a far more palatable way of managing the land use rather than the current situation of not allowing any ORV use at any time for any reason (except to access your mining claim or for oil exploration and recovery). It is time to let the land managers do their jobs and allow reasonable access to public lands while still affording protection to the environment.

To some extent I can understand the opposition to this bill from the local population. I can imagine that if I lived there and had exclusive use of this whole area I might not want to let anybody else in either. However, the fact is that a very large percentage of the land in question is public land and the public has a right to have reasonable access to it. Once people realize there will still be adequate protection for the land and wildlife of the area and that this is simply an issue of public access to public land, everyone I have spoken to about (this is for passage of this bill. Then, add in the factor of a positive effect on the local economy (fuel sales, food, lodging, guided tours, etc.), and I believe even a fair number of the local population would be for passage of this bill.

In conclusion, I would like to thank you for taking the time to read my comments. I would urge passage of SB 298 repealing AS 19.40.210 up to MP 235 of the Dalton Hwy. There is no reason for having the current blanket prohibition of ORV use for the Dalton Hwy. Corridor when the land managing agencies involved have regulatory tools available to them to manage use for the best interest of the environment and the public. It is time to finally allow the public reasonable access to the millions of acres of public land that are available along the Dalton Hwy.

Sincerely,



David Stoller
880 Hickman
North Pole AK. 99705
(907) 488-0585
stoller@uci.net

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/6/04

FURTHER: Finance

Date of 5-Day Notice: 2/15/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3.9.04

Transportation Committee considered SENATE BILL NO. 298

SB 298 OFF-ROAD VEHICLE USE ON DALTON HIGHWAY

"An Act repealing the ban on the use of off-road vehicles within five miles of the right-of-way of the James Dalton Highway."

and recommends:

- be replaced with _____ CS SB 298 (TRA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:	
<input type="checkbox"/> Same Title	
<input checked="" type="checkbox"/> New Title	
House Bill:	
<input type="checkbox"/> Same Title	
<input type="checkbox"/> Technical Title Change	
<input type="checkbox"/> New Title w/ SCR # _____	

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DOT	2/24/04			✓	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
Neora Janna Lincoln		X		
John Cowder	✓			
Therriault	✓			
Olson		X		
COCHAIR: <u>Thomas J. Woodson</u>			✓	
COCHAIR: <u>Cowder</u>				

Lincoln
John Cowder
Therriault
Olson
COCHAIR:
COCHAIR:

Bill History/Action Display



BILL: SB 298
BILL VERSION:
CURRENT STATUS: (S) FIN
SPONSOR(s): SENATOR(S) SEEKINS

SHORT TITLE: OFF-ROAD VEHICLE USE ON DALTON HIGHWAY
STATUS DATE: 03/10/04

TITLE: "An Act repealing the ban on the use of off-road vehicles within five miles of the right-of-way of the James Dalton Highway."

Bill Root: [Display Bill Root](#) [Next Bill](#)

[Full Text](#) [Fiscal Notes](#)


[Committee Action with Bill History](#)

Jrn-Date	Jrn-Page	Action
02/06/04	2085	(S) READ THE FIRST TIME - REFERRALS
02/06/04	2086	(S) TRA, FIN
03/10/04	2479	(S) TRA RPT CS 2DP 2DNP 1NR NEW TITLE
03/10/04	2479	(S) DP: COWDELY, THERRIAULT; NR: WAGONER;
03/10/04	2479	(S) DNP: LINCOLN, OLSON
03/10/04	2479	(S) FN1: ZERO(DOT)
03/10/04	2479	(S) REFERRED TO FINANCE

Similar Subject Match or Exact Subject Match
HIGHWAYS
MOTOR VEHICLES
PUBLIC LAND

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