

HB

280

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..."

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 AS 28.05.011(a)(8) repealed.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..."

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..."

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.

BULLET POINTS FOR CS HB 280 (FIN):

- Corrects an oversight that occurred with the implementation of 2 executive orders in 1997.
- The correction is needed in order to prevent the loss of federal highway funds.
- Specifically, HB 280 transfers some authority to regulate commercial vehicles from the Department of Public Safety to the Department of Transportation.
- The authority to be transferred has to do with adopting regulations related to safety inspections and driver licensing.

Alaska State Legislature
House Finance Committee

REPRESENTATIVE
BILL WILLIAMS

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State Capitol, Room 507
Juneau, AK 99801-1182

**Sponsor Statement for CSHB 280(FIN)
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; moving authority for commercial motor vehicle regulation from the Department of Public Safety to the Department of Transportation and Public Facilities; 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 Material's 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.

The Committee Substitute, which passed the House Finance Committee without objection, changes the title to add the phrase "moving authority for commercial motor vehicle regulation from the Department of Public Safety to the Department of Transportation and Public Facilities". This has the effect of tightening the title to clarify what the bill does.

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

LEGAL SERVICES

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MEMORANDUM

May 5, 2003

SUBJECT: Regulation of commercial motor vehicles CSHB 280(FIN)

TO: Representative Bill Williams
Attn: Tim

FROM: Michael F. Ford 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Requires the Department of Transportation and Public Facilities to adopt regulations regarding commercial motor vehicles that are necessary to avoid loss of federal highway money, except for commercial driver's license provisions under AS 28, that are within the authority of the Department of Administration.

Section 2. Technical amendment regarding operation of a commercial motor vehicle.

Section 3. Technical amendment regarding operation of a commercial motor vehicle.

Section 4. Technical amendment regarding operation of a commercial motor vehicle.

Section 5. Repeals the authority of the Department of Public Safety to adopt regulations regarding commercial motor vehicles that are necessary to avoid loss of federal highway money.

Section 6. Provision that indirectly amends Rule 43.1 of the Alaska Rules of Administration, relating to traffic bail forfeiture for certain commercial motor vehicle offenses.

Section 7. Transition provision regarding adoption of regulations by the Department of Transportation and Public Facilities.

Representative Bill Williams
May 5, 2003
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Section 8. Provides that secs. 1 - 5 and 7 of this Act take effect only if sec. 6 receives a two-thirds majority vote of each house.

Section 9. Effective date for sec. 7(a).

Section 10. Effective date for all sections but sec. 7.

MFF:med
03-482.med

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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 Component No. 2348
 Requester (H) TRA

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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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)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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