

SB

391

# 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

## MEMORANDUM

Date: April 20, 2004  
To: Office of Senator Cowdery  
From: Senator Ralph Seekins  
Re: Request for Hearing of SB 391

*AS for R.S.*

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Attached please find Senate Bill 391 along with concomitant Sponsor Statement and related information.

Senate Bill 391 amends AS 19.40.210 to allow trappers the use of snow machines within five miles of the right-of-way of the Dalton Highway for the purpose of accessing their traplines.

I respectfully request a hearing before your committee on this Bill at your earliest convenience.  
Thank you.



# 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 concerns 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

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District D

## **Senate Bill 391 Sponsor Statement**

**“An Act relating to use of a snow machine within the James Dalton Highway corridor to establish, maintain, and service traplines located outside the corridor.”**

Senate Bill 391 would allow trappers to use snow machines within the five mile corridor to access their traplines. Currently, Alaska Statute 19.40.210 bans, with limited exceptions, 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.

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.

Senate Bill 391 seeks to remedy this situation by allowing for the use of snow machines within the corridor for the express purpose of establishing, maintaining, or servicing a trapline located outside the corridor. To the extent that trapping is a seasonal activity, each trapline needs to be re-established on an annual basis. However, it is the sponsor's intent to provide a measure of relief to those trappers who have been operating in the area over the last several years.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

sb391.ins

Utermohle

4/28/04

INSERT # 1

Insert in lieu of current paragraph 3 of the bill

(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 ~~or~~; 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;

(4) the use of a snow machine by a person, who has a documented history of trapping within or adjacent to the highway corridor during the previous 24 months, to travel from within, or into, the for the purpose of establishing, maintaining, or servicing a trapline located outside of the corridor;

(b) In [IN] this section [PARAGRAPH], "highway corridor" means land within five miles of the right-of-way of the highway.

**Subject:** SB 391/question

**Date:** Wed, 28 Apr 2004 10:41:09 -0800

**From:** Shosh Seligman <Shosh\_Seligman@Legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Richard Schmitz <Richard\_Schmitz@legis.state.ak.us>

*Mary Ellen*

Hi.

See the following (long) draft transcription; note that highlighted areas are as close as there was to actual language.

RE: SB 391

[Conceptual Amendment 1]

TAPE 04-20

Side A (end of)

Lincoln: I was trying to work around this for a proposed amendment, and I guess it's to the sponsor, who has acknowledged that this is meant to be for those who are the real trappers in the area...

Lincoln (#864): I've got some language to amend it, but I wondered if you might have some language because you wanted this to be for those who were already established trappers.

Seekins: The intent is that we not do anything to disrupt those people who are currently trapping in that area ... I like to amend bills too... go ahead and propose the amendment.

Lincoln: The wording isn't right on this, and I don't know exactly where it would go in here, but conceptually, **"that a trapper must have received a BLM permit for snowmobile access in the past 24 months to access their - or - this trapline."**

Seekins: I'd just as soon leave BLM out. If someone can show that they've trapped there, they should be able to access it. To the best of my knowledge that's less than 10 people...and if this were conceptually were to say, "those people who can show that they have trapped there, you know in the last 24 months, something like that, that adequately meets my intent. But we've had troubles struggling with this, with the drafters, as well, to make sure that we're taking care of those folks who have been doing this from this federal threat, without opening it up to somebody who says, "I've got two traps in the back of my snow machine and I'm going out there. That's not our intent, and I think you know that."

Wagoner?: Would I be correct in assuming ...

(More conversation)

Lincoln: Senator Seekins, As you would say to me, I'm trying to help you here now, so work with me. And I don't know if 'BLM permit' and I don't know if BLM permit, I'm not sure if that's where that permitting process comes from. But if the conceptual language could be **that a trapper must have received a permit for snowmobile access in the past 24 months to access this trapline - or - their trapline.**

SEEKINS: Let me suggest something for you. A trapper who has taken fur (correct me if I'm wrong, Mr. Robus) ... to report to the state...

LINCOLN: That's my concern too. If they can show that within the last 24 months that they have taken fur that they will have, be, continued access to their trapline. Mr. Robus ...

SEEKINS: That's up to us to do that.

LINCOLN: ... there's way that they can show ... assurance there's no way to get around this

ROBUS: on state forms... trapper has to report locality ... nobody wants to tell

(TAPE CHANGES SIDE.)

SENATOR LINCOLN: I would move that conceptual amendment.

Seekins: I believe Senator Lincoln & I are now on the same page ... If they can show that through their ceiling (ph) forms that they actually trapped within that vicinity, and accessed it from the Haul Road, that they're exempt from this restriction, and if that's where we're going, I have no problem with that, it's a friendly amendment.

WAGONER: any objection? [There was no objection] We know have CS for ...

LINCOLN: To the sponsor, you were speaking earlier about working with Senator Olson ... then, should this have a sunset clause?

SEEKINS: If Senator Olson & I work out this other ...

LINCOLN: I was thinking...

SEEKINS: Bill will go to Finance ... work out differences ...

COWDERY: I move SB 391 with conceptual amendment that was just stated to the next committee of referral.

Roll Call: 3:2. Bill passes out of committee.