

HB

126



HOUSE JUDICIARY COMMITTEE

STATE CAPITOL, ROOM 120
(907) 465-4990

COMMITTEE MEMBERS

Rep. Jay Ramras
Chairman
Room, 118
(907) 465-3004

Rep. Nancy Dahlstrom
Vice-Chairman
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(907) 465-3783

Rep. John Coghill
Room 214
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Rep. Bob Lynn
Room 104
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Rep. Ralph Samuels
Room 204
(907) 465-2095

Rep. Max Gruenberg
Room 110
(907) 465-4940

Rep. Lindsey Holmes
Room 405
(907) 465-4919

MEMORANDUM

Date: Tuesday, March 13, 2007

To: Representative John Cogill
Chairman House Rules Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Judiciary Referral File
CSHB126(JUD)

Attached please find the following documents:

- CSHB126(JUD) 25-LS0453\O
- Leg. legal fax re: JUD amendments
- House Judiciary Committee Report
- Sponsor Statement
- Sectional Analysis
- Fiscal Notes
 - 1) DMV - 0 fiscal note
 - 2) DOT - 0 fiscal note
 - 3) DOT - Amended 0 fiscal note
- CSHB126(JUD) 25-LS0453\L
- Leg. legal fax re: amendments
- HB126 25-LS0453\C
- House State Affairs Committee Report
- Letters of support
- Table of noncompliance
- Motor Carrier Safety Improvement Act of 1999
- AS 11.81.900

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Jay_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, AK 99701



Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Fax

To: Jerry Luckhaupt

Fax #: 2029

Number of pages including cover: 1

From: Jane Pierson

Date: March 12, 2007

Re: House Judiciary Final for CSHB126(JUD) – 25-LS0453\L

Jerry –

Please draft a final for CSHB126(JUD) with the following minor amendments:

P.1, L.9 – After “access” please insert, “criminal justice”

P. 12, L.5 – After “knowingly” insert “as defined in AS 11.81.900”

Thank you

ALASKA STATE LEGISLATURE

Session:
State Capitol
Juneau, AK 99801-1182
(907) 465-3424
Fax (907) 465-3793

Interim:
50 Front Street, Suite 203
Ketchikan, AK 99901
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Chair
Transportation

Vice Chair
Fisheries

Member
Economic Development,
Trade and Tourism,
State Affairs

REPRESENTATIVE KYLE JOHANSEN
DISTRICT ONE

SPONSOR STATEMENT HB 126

"An act relating to driver's licenses and permits, commercial driver's licenses, and other motor vehicle laws; relating to the driver's license compact; and providing for and effective date."

The intent of HB 126 is to reduce the number and severity of commercial motor vehicle related fatalities and injuries. To achieve these ends, HB 126 updates existing motor vehicle statutes and adds new motor vehicle statutes to meet current and upcoming federal regulations for commercial driver's licenses. This legislation incorporates into Alaska law key provisions of the federal Motor Carrier Safety Improvement Act aimed at improving the overall effectiveness of the commercial driver's license program.

This bill will bring Alaska into compliance of the regulations set forth by the Federal Motor Carrier Safety Administration. Further noncompliance subjects Alaska to the withholding of up to five percent of federal-aid highway funds in the first year and up to ten percent of federal-aid highway funds in the second and subsequent years. The reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$10.4 million in federal fiscal year (FFY) 2008 and \$17.4 million in FFY 2009. If similar amounts to FFY 2009 are assumed, a total of \$80 million over a 5 year period would be lost if Alaska remains noncompliant. These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

This bill would exempt from the state's driver's license requirements certain military drivers operating commercial vehicles for military purposes and other drivers in cases of emergencies requiring additional assistance. Also, a nonresident holding a valid CDL issued by another jurisdiction whose permanent residence is maintained in that jurisdiction will not need to be issued a State of Alaska CDL.

SECTIONAL ANALYSIS

HOUSE BILL NO. 126

"An Act relating to driver's licenses and permits, commercial driver's licenses, and other motor vehicle laws; relating to the driver's license compact; and providing for an effective date."

Introduced: February 12, 2007

Section 1: Language to support the prior authorization under AS 28.35.030(q) and AS 28.35.032(s) for DOA/DMV to review criminal history; prior DUI/Refusals for proper application of revocation, suspension, cancellation and disqualification timeframes. Current records are not complete. 383.51

Section 2: Amends requirements so more current addresses may be used as reflected on citations, police reports, judgments or crash reports for notification of CDL drivers. 383.141

Section 3: Expands military exemption language to include more service members as required by FMCSA. 383.3 (c)

Adds exemption to allow non-CDL holder to operate snow removal equipment in case of emergency (this is good for the rural communities). 383.3(d)(3)

Allows a non-resident to operate a CMV using their home state license. FMCSA allows one CDL issued from the state where you are domiciled (permanent residence). 383.212

Section 4: Adds cancel and withdrawal language to comply with 384.201, 384.210

Section 5: Adds disqual language but may still be eligible for base privilege 384.212, 383.5

Section 6: Removes 1 year expiration of school bus license (no longer needed due to removal of tuberculin requirement in 05) which will allow the state to add a school bus license as an endorsement to a CDL as required by FMCSA 383.93, 383.123, 384.201

Section 7: Alaska allows CDL instruction permit holders to renew a CDL instruction permit as many times as requested effectively allowing a driver to operate a CDL along side a licensed CDL driver forever without taking the CDL skills test. DMV chose 1 renewal which equals 4 years total of driving on an instruction permit. Instruction permits will be issued specifically for each type of CDL (IC, IB, IA) so each upgrade allows 4 years of practice time.

Sections 8: Clarifies "legal" name and requires applicant to provide past driving history 384.206(2)(ii)

Section 9: "May" to "Shall" and maintaining disqual info 384.225, 384.207

Section 10: "May" to "Shall" and update record in 10 days 384.225, 384.207

- Section 11:** "May" to "Shall" and provide record in 10 days 384.225, 384.207
- Section 12:** "Shall" send convictions to other states.
- Section 13:** Change from one-month/three months to 30 days/90 days for consistency and equitable/equal time frames of suspension.
- Section 14:** Add disqualifications
- Section 15:** Clearly define 19 yoa to operate intrastate. Add domicile per Fed. Reg.
- Section 16:** Add administrative actions and 2 new federal offenses
- Section 17:** Gives admin authority after court conviction to take disqual.
- Section 18:** Gives admin authority after court conviction to take disqual Change "substance" to "material" to comply with FMCSA
- Section 19:** Gives admin authority after court conviction to take disqual.
- Section 20:** Surrender of license if admin. Action
- Section 21:** Increases penalties to match federal requirements.
- Section 22:** Gives admin authority after court conviction to take disqual
- Section 23:** Gives USDOT authority to declare a driver an imminent hazard and creates civil penalties for employers.
- Section 24:** Adds disqualification info
- Section 25:** Adds 3 new serious offenses as required by FMCSA
- Section 26:** Adds new definitions
- Section 27:** Removes definition that has been added in AS 28.05.065
- Section 28:** Same amendment and logic as Section 2
- Section 29:** Updates compact with federal changes
- Section 30:** adds definition
- Section 31:** repeals language no longer applicable

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB126-DOA-DMV-2-13-07
 Bill Version: HB 126
 () Publish Date: _____

Revision Date/Time (Note if correction):
 "An Act relating to driver's licenses and permits,
 commercial driver's licenses,..."

Dept. Affected: Administration

Title: _____
 Sponsor: Rep. Johansen
 Requester: (H) STA

RDU: Division of Motor Vehicles
 Component: Motor Vehicles
 Component No.: 2348

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Travel | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Contractual | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Supplies | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Equipment | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Land & Structures | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Grants & Claims | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Miscellaneous | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|-----|-----|-----|-----|-----|-----|
| CAPITAL EXPENDITURES | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-----------------------------|-----|-----|-----|-----|-----|-----|

| | | | | | | |
|-------------------------------|-----|-----|-----|-----|-----|-----|
| CHANGE IN REVENUES () | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
|-------------------------------|-----|-----|-----|-----|-----|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1003 GF Match | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1004 GF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1005 GF/Program Receipts | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| 1037 GF/Mental Health | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Other (Specify Type--Do not abbreviate) | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill will update existing motor vehicle statutes to bring the state into compliance with current and upcoming federal regulations for commercial driver's licenses.

We do not anticipate any change in expenditures or revenue as a result of this bill.

Prepared by: Duane Bannock, director
 Division: Motor Vehicles
 Approved by: Kevin Brooks, Deputy Commissioner
 Agency: Department of Administration

Phone 269-5559
 Date/Time 2/13/07 10:00 AM
 Date 2/13/2007

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

Fiscal Note Number: HB 126-DOT-PLN-03-09-07
 Bill Version: HB 126
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Commercial Drivers Licenses

Dept. Affected: DOT&PF
 RDU Planning
 Component Program Development

Sponsor Johansen
 Requester House STA

Component No. 365

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 |

| | | | | | | |
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| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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|-------------------------------|--|--|--|--|--|--|
| 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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill brings the state into compliance with the Motor Carrier Safety Improvement Act of 1999. Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of Federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b). This reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008). These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP). Additionally failure to come into compliance could result in the loss of the Motor Carrier Safety Assistance Program funding. This would be \$850.0 for FY08 and FY09.

Prepared by: Mary Siroky
 Division Commissioner's Office
 Approved by: Nancy Slagle, Director Admin Service
 Agency Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/9/07 12:00 AM
 Date 3/9/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB 126-DOT-PLN-02-14-07
 Bill Version: HB 126
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DOT&PF
 Title Commercial Drivers Licenses RDU Planning
 Component Program Development
 Sponsor Johansen
 Requester House STA Component No. 365

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 | FY 2013 |
|------------------------|------------|------------|------------|------------|------------|------------|
| 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 () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

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 (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This bill brings the state into compliance with the Motor Carrier Safety Improvement Act of 1999.

Under section 384.401 of the Federal Motor Carrier Safety Regulations (49 CFR 384.401), a state that is not in compliance is subject to the withholding of up to five percent of Federal-aid highway funds that would otherwise be appropriated under 23 U.S.C. section 104(b). This reduction in National Highway System, Surface Transportation Program and Interstate Maintenance funds is estimated to be \$7 million in federal fiscal year (FFY) 2008 (starting October 1, 2007) and \$14 million in FFY 2009 (October 2008).

These funds are the most flexible dollars used in the State Transportation Improvement Program (STIP).

Prepared by: Mary Siroky Phone 465-4772
 Division Commissioner's Office Date/Time 2/14/07 12:00 AM
 Approved by: John MacKinnon Date 2/14/2007
 Agency Department of Transportation and Public Facilities

25-LS0453L
Luckhaupt
2/23/07

CS FOR HOUSE BILL NO. 126(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVE JOHANSEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to driver's licenses and permits, commercial driver's licenses, and
2 other motor vehicle laws; relating to the driver's license compact; and providing for an
3 effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * Section 1. AS 28.05 is amended by adding a new section to read:

6 **Sec. 28.05.065. Access to criminal justice information.** (a) For purposes of
7 carrying out the provisions of AS 28.05, AS 28.15, AS 28.33, and AS 28.35, an
8 employee of the department assigned to perform functions under those chapters may
9 access information about an adult or minor charged with or convicted of an offense.

10 (b) For purposes of obtaining access to criminal justice information
11 maintained by the Department of Public Safety under AS 12.62, the unit assigned
12 motor vehicle functions in the Department of Administration is a criminal justice
13 agency conducting a criminal justice activity.

14 (c) In this section,

1 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

2 (2) "criminal justice agency" has the meaning given in AS 12.62.900.

3 * **Sec. 2.** AS 28.05.071 is amended to read:

4 **Sec. 28.05.071. Change of name or address.** A person who has applied for or
5 been issued a certificate, registration, title, license, permit, or other form under this
6 title, and who changes the person's name or moves from the address shown on the
7 records or forms of the Department of Administration or the Department of Public
8 Safety, shall notify the appropriate department [IN WRITING] of the change in name
9 or address within 30 days

10 (1) on a form or in a format specified by the appropriate
11 department; and

12 (2) in a manner prescribed in regulations adopted by the
13 appropriate department.

14 * **Sec. 3.** AS 28.15.021 is amended to read:

15 **Sec. 28.15.021. Persons exempt from driver licensing.** The following
16 persons are exempt from driver licensing under this chapter:

17 (1) an employee of the United States government while operating a
18 motor vehicle owned by or leased to the United States government and being operated
19 on official business, unless the employee is required by the United States government
20 or an agency of that government to have a state driver's license;

21 (2) a nonresident who is at least 16 years of age and who has a valid
22 driver's license issued by another jurisdiction; however, an Alaska driver's license
23 must be obtained by the end of a 90-day period after entry into the state;

24 (3) a member of the armed forces of the United States who has a valid
25 driver's license issued by another jurisdiction when the permanent residence of the
26 member is maintained in that jurisdiction;

27 (4) a person when driving an implement of husbandry, as defined by
28 regulation, that is only temporarily driven or moved on a highway;

29 (5) a person when driving or operating an off-highway vehicle,
30 watercraft, aircraft, or other vehicle not designed for highway use as specified by the
31 department by regulation;

1 (6) a person who is at least 16 years of age with a valid driver's license
2 from a jurisdiction other than Alaska while driving a motor-driven cycle; however, an
3 Alaska driver's license for driving a motor-driven cycle must be obtained by the end of
4 a 90-day period after entering the state;

5 (7) a person when operating an electric personal motor vehicle;

6 (8) certain drivers in the United States military service who are
7 operating commercial motor vehicles for military purposes; in this paragraph,
8 "certain drivers in the United States military service"

9 (A) means

10 (i) a member of the United States active duty
11 military, including active duty United States Coast Guard;

12 (ii) a member of the United States military reserves;

13 (iii) a member of the Alaska National Guard or the
14 national guard of another state on active duty in this state,
15 including a member on part-time Alaska National Guard training;
16 and

17 (iv) an individual who serves as an Alaska National
18 Guard military technician; in this sub-subparagraph, "Alaska
19 National Guard military technician" means an individual who is
20 not a member of the military, but is required to wear a military
21 uniform;

22 (B) does not include an individual who serves as a United
23 States Military Reserve technician;

24 (9) drivers employed by a municipality or established village, as
25 that term is defined in AS 04.21.080, with a population of 3,000 or less operating
26 snow removal equipment in this state within the boundaries of the municipality
27 or established village if

28 (A) the employee who is properly licensed in this state and
29 ordinarily operates the equipment is unavailable; or

30 (B) the municipality or established village determines that
31 an emergency exists that requires additional assistance;

1 **(10) a nonresident who holds a valid commercial driver's license**
2 **issued by another jurisdiction when the permanent residence of the commercial**
3 **driver is maintained in that jurisdiction.**

4 * Sec. 4. AS 28.15.031(b) is amended to read:

5 (b) The department may not issue an original or duplicate driver's license to,
6 nor renew or reinstate the driver's license of, a person

7 (1) whose license is suspended, [OR] revoked, **canceled, or**
8 **withdrawn in this or any other jurisdiction** except as otherwise provided in this
9 chapter;

10 (2) who fails to appear in court for the adjudication of a certain
11 vehicle, driver, or traffic offense when the person's appearance is required by statute,
12 regulation, or court rule;

13 (3) who is an habitual user of alcohol or another drug to such a degree
14 that the person is incapable of safely driving a motor vehicle;

15 (4) when the department, based upon medical evidence, has
16 determined that because of the person's physical or mental disability the person is not
17 able to drive a motor vehicle safely;

18 (5) who is unable to understand official traffic control devices as
19 displayed in this state or who does not have a fair knowledge of traffic laws and
20 regulations, as demonstrated by an examination;

21 (6) who has knowingly made a false statement in the person's
22 application for a license or has committed fraud in connection with the person's
23 application for, or in obtaining or attempting to obtain, a license, or who has not
24 applied under oath on the form provided for the purpose of obtaining or attempting to
25 obtain a license or permit; or

26 (7) who is required under AS 28.20 to furnish proof of financial
27 responsibility and who has not done so.

28 * Sec. 5. AS 28.15.031 is amended by adding new subsections to read:

29 (c) The department may not issue an original or duplicate commercial driver's
30 license to, nor renew or reinstate the commercial driver's license of, a person who is
31 disqualified from operating commercial motor vehicles in this or any other jurisdiction

1 or is not domiciled in this state.

2 (d) In this section, "disqualified" has the meaning given in AS 28.33.190.

3 * Sec. 6. AS 28.15.046(f) is amended to read:

4 (f) Costs of conducting the background check required under (b)(4) of this
5 section shall be paid by the applicant. [A LICENSE ISSUED UNDER THIS
6 SECTION EXPIRES ON SEPTEMBER 1 OF THE YEAR FOLLOWING
7 ISSUANCE.] Application for renewal may be made by submitting to the department
8 the results of a current physical examination and paying the required fee.

9 * Sec. 7. AS 28.15.051(a) is amended to read:

10 (a) Except as provided in (b) of this section, a person who is at least 14 years
11 of age may apply to the department for an instruction permit. The department may,
12 after the applicant has successfully passed all parts of the examination under
13 AS 28.15.081 other than the driving test, issue to the applicant an instruction permit.
14 The permit allows a person, while having the permit in the person's immediate
15 possession, to drive a specified type or class of motor vehicle on a highway or
16 vehicular way or area for a period not to exceed two years. The permittee shall be
17 accompanied by a person at least 21 years of age who has been licensed at least one
18 year to drive the type or class of vehicle being used, who is capable of exercising
19 control over the vehicle and who occupies a seat beside the driver, or who
20 accompanies and immediately supervises the driver when the permittee drives a
21 motorcycle. An instruction permit may be renewed one time. Once a license is issued
22 to drive a specified type or class of motor vehicle, a driver is not eligible to obtain
23 an instructional permit for that specified type or class of motor vehicle.

24 * Sec. 8. AS 28.15.061(b) is amended to read:

25 (b) An application under (a) of this section must

26 (1) contain the applicant's full legal name, date and place of birth, sex,
27 and mailing and residence addresses;

28 (2) state whether the applicant has been previously licensed in the past
29 10 years as a driver and, if so, when and by what jurisdiction;

30 (3) state whether any previous driver's license issued to the applicant
31 has ever been suspended or revoked or whether an application for a driver's license has

1 ever been refused and, if so, the date of and reason for the suspension, revocation, or
2 refusal;

3 (4) contain the applicant's social security number; the requirement of
4 this paragraph only applies to an applicant who has been issued a social security
5 number; and

6 (5) contain other information that the department may reasonably
7 require to determine the applicant's identity, competency, and eligibility.

8 * Sec. 9. AS 28.15.151(a) is amended to read:

9 (a) The department shall [MAY] maintain a file of

10 (1) every driver's license application, license or permit, and duplicate
11 driver's license issued by it;

12 (2) every license that has been suspended, revoked, canceled, limited,
13 restricted, or denied, and the reasons for those actions; [AND]

14 (3) all accident reports required to be forwarded to the department
15 under this title; and

16 (4) every disqualification of an individual from operating a
17 commercial motor vehicle.

18 * Sec. 10. AS 28.15.151(b) is amended to read:

19 (b) The department shall [MAY] also maintain and update within 10 days
20 after receipt by the department, a file of all accident reports, abstracts of court
21 records of convictions of vehicle, driver, and traffic offenses, and other information
22 that [WHICH] the department considers necessary to carry out the purposes of this
23 chapter.

24 * Sec. 11. AS 28.15.151(c) is amended to read:

25 (c) The department shall, upon request, subject to the applicable provisions of
26 AS 12.62 and (f) of this section and without charging a fee, furnish (1) a municipal,
27 state, or federal administrative or judicial agency with a certified abstract of the
28 driving record of a driver within 10 days after receipt of the request by the
29 department; and (2) a parent, foster parent, or guardian of a driver who is under 18
30 years of age and not an emancipated minor an abstract of the driving record of that
31 driver; the department may refuse to release the driver's address to the parent, foster

1 parent, or guardian if the department determines that the release of the driver's address
2 poses a threat to the health or safety of the driver. The abstract must include a listing
3 of accidents in which the driver has been determined by the department or a court of
4 competent jurisdiction to have been liable, convictions of vehicle, driver, and traffic
5 offenses, any actions taken upon the driver's license, and information relating to
6 financial responsibility.

7 * Sec. 12. AS 28.15.171(b) is amended to read:

8 (b) The department shall [MAY], upon receiving the record of a conviction of
9 a person licensed in another jurisdiction for a vehicle, driver, or traffic offense in this
10 state, or upon suspending or revoking the person's driving privilege, forward a copy of
11 the record or suspension or revocation to the motor vehicle administrator for the
12 jurisdiction in which the person convicted is licensed.

13 * Sec. 13. AS 28.15.211(a) is amended to read:

14 (a) Except for a point system suspension or revocation under AS 28.15.221 -
15 28.15.241 and unless provided otherwise by law, and unless the suspension or
16 revocation was for a cause that has been removed, a person whose driver's license,
17 privilege to drive, or privilege to obtain a license has been suspended or revoked may
18 not apply for a new license, and the person's driving privilege may not be restored,
19 until the expiration of

20 (1) 30 days [ONE MONTH] from the date on which the license,
21 privilege to drive, or privilege to obtain a license was suspended or revoked for a first
22 conviction of the particular offense from which the suspension or revocation resulted;

23 (2) 90 days [THREE MONTHS] from the date on which the license,
24 privilege to drive, or privilege to obtain a license was suspended or revoked for a
25 second conviction within 12 consecutive months of the same offense from which the
26 suspension or revocation resulted;

27 (3) one year from the date on which the license, privilege to drive, or
28 privilege to obtain a license was suspended or revoked for a third or subsequent
29 conviction within 12 consecutive months of the same offense from which the
30 suspension or revocation resulted.

31 * Sec. 14. AS 28.15.211(b) is amended to read:

1 (b) A limitation, suspension, or revocation of a driver's license, privilege to
2 drive, or privilege to obtain a license or a disqualification imposed by a court or the
3 department takes effect on the date of final judgment, except that if another court or
4 department limitation, suspension, disqualification, or revocation is in effect on the
5 date of final judgment, the effective date of the last imposed limitation, suspension,
6 disqualification, or revocation is at the end of the last day of the previous limitation,
7 suspension, disqualification, or revocation unless the court or department specifies
8 otherwise.

9 * Sec. 15. AS 28.33.100(a) is amended to read:

10 (a) A person may not drive a commercial motor vehicle until the person
11 applies for and is issued a license for that purpose under AS 28.15.041. The
12 department may not issue a license to drive a commercial motor vehicle unless the
13 applicant

14 (1) is at least 19 years of age, to operate in intrastate commerce, or
15 at least 21 years of age, to operate in interstate commerce:

16 (2) has held a valid driver's license at least one year before the date of
17 application or meets the experience qualifications established by the department;

18 (3) has successfully completed all required driving tests and written
19 and physical examinations;

20 (4) either does not have a driver's license issued by another jurisdiction
21 or surrenders all driver's licenses issued by other jurisdictions; and

22 (5) is domiciled in this state.

23 * Sec. 16. AS 28.33.140(a) is amended to read:

24 (a) In addition to any [THE] court action or administrative action in this or
25 any other jurisdiction [PROVIDED IN AS 28.15.181], conviction of a person who
26 holds or is required to have a commercial driver's license of any of the following
27 offenses is grounds for immediate disqualification from driving a commercial motor
28 vehicle for the periods set out in this section:

29 (1) operating a commercial motor vehicle while under the influence of
30 an alcoholic beverage, inhalant, or controlled substance in violation of AS 28.33.030;

31 (2) refusal to submit to a chemical test in violation of AS 28.35.032;

1 (3) operating a motor vehicle while under the influence of an alcoholic
2 beverage, inhalant, or controlled substance in violation of AS 28.35.030;

3 (4) leaving the scene of an accident in violation of AS 28.35.060, or
4 failing to file, or providing false information in, an accident report in violation of
5 AS 28.35.110;

6 (5) a felony under state or federal law that was facilitated because the
7 person used a [COMMERCIAL] motor vehicle;

8 (6) a serious traffic violation;

9 (7) driving after being placed out of service in violation of regulations
10 adopted under AS 19.10.060(c) or AS 28.05.011; [OR]

11 (8) operating a commercial motor vehicle in violation of a federal or
12 state statute or regulation, or a local law or ordinance, relating to railroad-highway
13 grade crossings;

14 (9) operating a commercial motor vehicle while the driver's
15 commercial motor vehicle license is suspended, revoked, or canceled, or the
16 driver is disqualified;

17 (10) causing a fatality through the negligent operation, or
18 operation in violation of a felony criminal law, of a commercial motor vehicle.

19 * Sec. 17. AS 28.33.140(c) is amended to read:

20 (c) Upon a conviction by a court of [A COURT CONVICTING] a person of
21 an offense described in (a)(6) of this section, the department shall disqualify that
22 person from driving a commercial motor vehicle for not less than 60 days if the person
23 has been previously convicted once, and 120 days if the person has been previously
24 convicted more than once. The disqualification period under this subsection is in
25 addition to any other previously imposed period of disqualification. As used in
26 this subsection, "previously convicted" means having been convicted in this or another
27 jurisdiction, within three years preceding the date of the present offense, of an offense
28 described in (a)(6) of this section, or of another law or ordinance with substantially
29 similar elements, arising out of a separate incident.

30 * Sec. 18. AS 28.33.140(d) is amended to read:

31 (d) Upon conviction by a court of [A COURT CONVICTING] a person of

1 an offense described in (a)(1) - (5), (9), or (10) of this section, the department shall
2 disqualify that person from driving a commercial motor vehicle for not less than one
3 year for a first offense, except that, if the offense was

4 (1) facilitated by a commercial motor vehicle transporting a hazardous
5 material [SUBSTANCE] that required that placards be placed on the vehicle under 49
6 U.S.C. 5101 - 5127, the period of disqualification is not less than three years;

7 (2) a felony offense that involved the manufacture, distribution, or
8 dispensing, or possession with intent to manufacture, distribute, or dispense, a
9 controlled substance, the disqualification is for life and the license may not be
10 reinstated under (g) of this section.

11 * **Sec. 19.** AS 28.33.140(e) is amended to read:

12 (e) Upon conviction by a court of [A COURT CONVICTING] a person of
13 an offense described in (a)(1) - (5), (9), or (10) of this section, the department shall
14 disqualify that person from driving a commercial motor vehicle for life if the person
15 has been previously convicted. As used in this subsection, "previously convicted"
16 means having been convicted in this or another jurisdiction of an offense described in
17 (a)(1) - (5), (9), or (10) of this section, or of another law or ordinance with
18 substantially similar elements.

19 * **Sec. 20.** AS 28.33.140(i) is amended to read:

20 (i) In addition to the requirements of AS 28.15.191, a court that disqualifies a
21 person from driving a commercial motor vehicle shall require the surrender of the
22 license, and shall immediately forward the license to the department with the record of
23 conviction and notification of the effective date of the disqualification. If the
24 disqualification occurs by administrative action as described in (a) of this section,
25 the person disqualified from driving shall surrender the license to the
26 department.

27 * **Sec. 21.** AS 28.33.140(j) is amended to read:

28 (j) Upon conviction by a court of [A COURT CONVICTING] a person of an
29 offense described in (a)(7) of this section, the department shall disqualify that person
30 from driving a commercial motor vehicle for the following periods: (1) if the person
31 has not been previously convicted of violating an out-of-service order, not less than

1 180 [90] days; (2) if the person has been previously convicted once of violating an
2 out-of-service order, not less than two years [ONE YEAR]; (3) if the person has been
3 previously convicted more than once of violating an out-of-service order, not less than
4 three years; (4) if the person operates a commercial motor vehicle transporting
5 hazardous materials or a vehicle designed to transport 16 or more passengers,
6 including the driver, in violation of an out-of-service order, not less than 180
7 days; (5) if the person has been previously convicted of operating a commercial
8 motor vehicle transporting hazardous materials or a vehicle designed to
9 transport 16 or more passengers, including the driver, in violation of an out-of-
10 service order two or more times in separate incidents within a 10-year period, not
11 less than three years. In this subsection, "previously convicted" means having been
12 convicted in this or another jurisdiction of an offense described in (a)(7) of this section
13 within 10 years preceding the date of the present offense.

14 * Sec. 22. AS 28.33.140(k) is amended to read:

15 (k) Upon conviction by a court of [A COURT CONVICTING] a person of
16 an offense described in (a)(8) of this section, the department shall disqualify that
17 person from operating a commercial motor vehicle for the following periods: (1) if the
18 person has not been previously convicted of violating a federal or state statute or
19 regulation, or a local law or ordinance, relating to railroad-highway grade crossings,
20 not less than 60 days; (2) if the person has been previously convicted once of violating
21 a federal or state statute or regulation, or a local law or ordinance, relating to railroad-
22 highway grade crossings, not less than 120 days; (3) if the person has been previously
23 convicted more than once of a violation of a federal or state statute or regulation, or a
24 local law or ordinance, relating to railroad-highway grade crossings, not less than one
25 year. In this subsection, "previously convicted" means having been convicted in this or
26 another jurisdiction of an offense described in (a)(8) of this section within three years
27 proceeding the date of the present offense.

28 * Sec. 23. AS 28.33.140 is amended by adding new subsections to read:

29 (l) A person who operates a commercial motor vehicle whose driving is
30 determined by the United States Department of Transportation to constitute an
31 imminent hazard is subject to disqualification as specified by the department in

1 regulation. The regulations adopted by the department under this subsection must be
2 substantially similar to those set by the federal government.

3 (m) A person who violates the standards for operating a commercial motor
4 vehicle set out by the department in regulation is subject to civil penalties established
5 by the department in regulation. An employer who knowingly allows an employee to
6 drive in violation of an out-of-service order or in violation of a railroad-highway grade
7 crossing is subject to civil penalties as described in 49 U.S.C. 521(b) as established by
8 the department in regulation. The department may adopt regulations under AS 44.62
9 to implement this subsection. The regulations adopted under this subsection must be
10 substantially similar to any applicable federal regulations.

11 * Sec. 24. AS 28.33.150(a) is amended to read:

12 (a) A person is guilty of a class A misdemeanor if the person drives a
13 commercial motor vehicle in this state

14 (1) without being licensed or privileged in this state to drive a
15 commercial motor vehicle;

16 (2) during a period when that person's driver's license, privilege to
17 drive, or privilege to obtain a license has been canceled, suspended, or revoked, or the
18 person has been disqualified, in this or another jurisdiction;

19 (3) in violation of a limitation placed upon that person's license or
20 privilege to drive in this or another jurisdiction;

21 (4) during a period when that person has been disqualified from
22 driving a commercial motor vehicle by a court or an administrative agency in this or
23 another jurisdiction; or

24 (5) in violation of an out of service order issued under AS 28.33.130 or
25 under a law in another jurisdiction having substantially similar requirements.

26 * Sec. 25. AS 28.33.190(11) is amended to read:

27 (11) "serious traffic violation" means

28 (A) speeding 15 miles per hour or more above the posted limit;

29 (B) reckless or negligent driving, in violation of AS 28.35.400
30 or 28.35.410 or an ordinance with substantially similar elements;

31 (C) violation of a provision of this title, or a regulation adopted

1 under this title, relating to improper lane changes or following too closely, or
2 an ordinance with substantially similar elements; [OR]

3 (D) violation of a law or ordinance relating to traffic control,
4 which was determined by the court by a preponderance of the evidence to have
5 been a factor in causing physical injury to a person;

6 (E) driving a commercial motor vehicle without obtaining a
7 license to drive a commercial motor vehicle;

8 (F) driving a commercial motor vehicle without a license to
9 drive a commercial motor vehicle in the driver's possession; however, if an
10 individual provides proof to the department by the date that the
11 individual was required to appear in court or pay any fine for that
12 violation that the individual held a valid license to drive a commercial
13 motor vehicle on the date the citation was issued, the driving may not be
14 considered as a serious traffic violation under this paragraph; or

15 (G) driving a commercial motor vehicle without the proper
16 class of license to drive a commercial motor vehicle and any required
17 endorsements for the specific vehicle group being operated, or for the
18 passengers or type of cargo being transported.

19 * Sec. 26. AS 28.33.190 is amended by adding new paragraphs to read:

20 (12) "commerce" means

21 (A) any trade, traffic, or transportation within the jurisdiction
22 of the United States between a place in a state and a place outside of the United
23 States; and

24 (B) trade, traffic, and transportation in the United States that
25 affects any trade, traffic, and transportation described in (A) of this paragraph;

26 (13) "commercial driver's license" means a license issued by a state or
27 other jurisdiction, in accordance with the standards contained in 49 C.F.R. 383, to an
28 individual authorizing the individual to operate a class of a commercial motor vehicle;

29 (14) "conviction" means an unvacated adjudication or conviction of
30 guilt, or a determination that a person has violated or failed to comply with the law in
31 a court of original jurisdiction or by an authorized administrative agency, an unvacated

1 forfeiture of bail or collateral deposited to secure the person's appearance in court, a
2 plea of guilty or nolo contendere accepted by the court, the payment of a fine or court
3 cost, or violation of a condition of release without bail, regardless of whether the
4 penalty is rebated, suspended, or probated;

5 (15) "domicile" means a state of the United States where a person has
6 the person's true, fixed, and permanent home and principal residence and to which the
7 person has the intention of returning whenever the person is absent;

8 (16) "hazardous material" means any material that has been designated
9 as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of
10 49 C.F.R. 172 or any quantity of a material listed as a select agent or toxin in 42
11 C.F.R. 73;

12 (17) "imminent hazard" means the existence of a condition that
13 presents a substantial likelihood that death, serious illness, severe personal injury, or a
14 substantial endangerment to health, property, or the environment may occur before the
15 reasonably foreseeable completion date of a formal proceeding by the United States
16 Department of Transportation begun to lessen the risk of that death, illness, injury or
17 endangerment.

18 * Sec. 27. AS 28.35.032(s) is amended to read:

19 (s) For purposes of this section, the director of the division within the
20 department responsible for administration of this section or a person designated by the
21 director may request and receive criminal justice information available under
22 AS 12.62. [IN THIS SUBSECTION, "CRIMINAL JUSTICE INFORMATION" HAS
23 THE MEANING GIVEN IN AS 12.62.900.]

24 * Sec. 28. AS 28.35.135(b) is amended to read:

25 (b) A person who has a certification, registration, title, license, or other form
26 issued under this title, or who has applied for a certification, registration, license, or
27 other form, and who changes the person's name or moves from the address shown on
28 the department's records or forms, shall notify the department [IN WRITING] of the
29 change in name or address within 30 days

30 **(1) on a form or in a format specified by the department; and**

31 **(2) in a manner prescribed in regulations adopted by the**

1 department.

2 * **Sec. 29.** AS 28.37.150 is amended to read:

3 **Sec. 28.37.150. Grounds requiring refusal to issue license.** Upon application
4 for a license to drive, the licensing authority in a party state shall ascertain whether the
5 applicant has ever held, or is the holder of a license to drive issued by another party
6 state. The licensing authority in the state where application is made may not issue a
7 license to drive to the applicant if

8 (1) the applicant has held a license, but the license has been suspended,
9 revoked, or canceled, or the applicant has been disqualified from operating a
10 commercial motor vehicle, by reason, in whole or in part, of a violation, and the
11 suspension period has not terminated;

12 (2) the applicant has held a license, but the license has been revoked by
13 reason, in whole or in part, of a violation, and the revocation has not terminated;
14 except that after the expiration of one year from the date the license was revoked, the
15 person may make application for a new license if permitted by law; the licensing
16 authority may refuse to issue a license to an applicant if, after investigation, the
17 licensing authority determines that it will not be safe to grant to the person the
18 privilege of driving a motor vehicle on the public highways;

19 (3) the applicant is the holder of a license to drive issued by another
20 party state and currently in force, unless the applicant surrenders the license;

21 (4) the applicant has held a license, but has been disqualified from
22 operating a commercial motor vehicle by reason, in whole or in part, of a
23 violation, and the disqualification has not terminated; however, a person may
24 make an application for a noncommercial driver license if permitted by other
25 law.

26 * **Sec. 30.** AS 28.90.990(a) is amended by adding a new paragraph to read:

27 (29) "criminal justice information" has the meaning given in
28 AS 12.62.900.

29 * **Sec. 31.** AS 28.33.140(b) and 28.33.190(8) are repealed.

30 * **Sec. 32.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 TRANSITION: REGULATIONS. The Department of Administration may proceed to
2 adopt regulations necessary to implement this Act. The regulations take effect under AS 44.62
3 (Administrative Procedure Act), but not before the effective date of the statutory changes.

4 * **Sec. 33.** Section 32 of this Act takes effect immediately under AS 01.10.070(c).

5 * **Sec. 34.** Except as provided in sec. 33 of this Act, this Act takes effect July 1, 2007.

ALASKA STATE LEGISLATURE HOUSE JUDICIARY COMMITTEE

Representative Jay Ramras
Chairman
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Committee Members:
Representative Nancy Dahlstrom,
Vice-Chairman
Representative John Coghill
Representative Bob Lynn
Representative Ralph Samuels
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

Fax

To: Leg. Legal

Fax #: 2029

Number of pages including cover:

From: Jane Pierson

Date: February 21, 2007

Re: Judiciary CS for HB 126

Would you please draft a Judiciary CS for HB 126 to incorporate the following changes:

P. 1, L. 6-10 (a) For purposes of carrying out the provisions of AS 28.05, AS 28.15, AS 28.33, and AS 28.35, an employee of the department assigned to perform functions under those chapters may access information about an adult or a minor [juvenile] charged with or [,] convicted of [, or adjudicated a delinquent for] an offense.

P. 8, L.26 following "conviction"

Insert "of a person who holds or is required to have a commercial driver's license"

P. 10, L. 1 following "(a)(1)-(5)"

Insert ", (9), or (10)"

ε P. 13 ε 17

P. 14, L. 27 Delete "in writing"

Insert "[IN WRITING]"



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

The Honorable Sarah Palin
Governor of Alaska
Juneau, AK 99811

Administrator

400 Seventh St., S.W.
Washington, D.C. 20590

Refer to: MC-ESL

JAN 31 2007

Dear Governor Palin:

This is a follow-up to the May 17, 2006, letter in which the Federal Motor Carrier Safety Administration (FMCSA) issued a determination of substantial noncompliance to the State of Alaska. That determination was based on the State's failure to adopt the statutory authority needed to enforce all the required Commercial Driver's License provisions of the Motor Carrier Safety Improvement Act of 1999 (MCSIA). In addition, Alaska had not met the projected dates in its Action Plan (submitted in February 2006 to FMCSA) for beginning and passing the Structured Test administered by the American Association of Motor Vehicle Administrators (AAMVA) for transmitting and receiving via the Commercial Driver License Information System the new data elements required by MCSIA.

Since the May 17, 2006 letter, FMCSA has been encouraged that Alaska has established the date of January 29, 2007, to begin structured testing with AAMVA and has drafted legislation that it plans to introduce to the legislature that would bring the State into compliance with the MCSIA provisions for which it lacked statutory authority. Tracy Lewellyn, FMCSA Division Administrator in Alaska, has indicated to us that Kerry Hennings and Shelly Mellott deserve praise for their efforts in resolving compliance issues.

Nonetheless, this letter is a reminder that Alaska is scheduled to lose up to 5 percent of its Federal-aid highway funds on October 1, 2007. The FMCSA will withdraw this determination only when the required legislation is passed and signed by you and when the State successfully completes the structured test of the MCSIA data elements administered by AAMVA.

The FMCSA would like to see Alaska take the necessary steps to avoid sanctions and join other States in creating a system to keep unsafe drivers of commercial motor vehicles off our highways by implementing the provisions of MCSIA.

The FMCSA Division Administrator Tracy Lewellyn and her staff are available to assist you. She may be contacted at (907) 271-4068.

Sincerely yours,

John H. Hill

cc:

Annette Kreitzer, Commissioner, Alaska Department of Administration
Duane Bannock, Director, Alaska Division of Motor Vehicles
Leo von Scheben, Commissioner, Alaska Department of Transportation
Dominick Spataro, Division Chief, FMCSA CDL Division
Tracy Lewellyn, FMCSA Division Administrator, Alaska
William R. Paden, FMCSA Field Administrator, Western Service Center
Kent Fleming, FMCSA Western Service Center
J. Richard Capka, Administrator, Federal Highway Administration

Alaska Trucking Association, Inc.

3443 Minnesota Drive · Anchorage, Alaska 99503 · Phone (907) 276-1149 · Fax (907) 274-1946
www.aktrucks.org

February 19, 2007

Chairman Bob Lynn
House State Affairs Committee
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801

re: HB 126

Dear Chairman Lynn,

The Alaska Trucking Association is a state wide organization representing trucking interests from Barrow to Ketchikan. In another three weeks, we will conduct our 49th Annual Meeting celebrating over 49 years of representing our industry in Alaska. Our more than 200 members represent all of the diverse trucking operations in the state and many associate members who provide goods and services to our industry.

On behalf of ATA, I take this opportunity to express our support of HB126. HB 126 is an important bill relating to commercial drivers licenses, DMV operations and other driver issues.

In reviewing the bill, we are in agreement with the intent of the bill to reduce the number and severity of commercial motor vehicle related fatalities and injuries. Alaska has had an admirable commercial vehicle safety record over the years and we support efforts to continue to improve safety for commercial vehicles. One of the elements of our mission statement is to "...promote highway and driver safety."

Provisions of the bill will bring Alaska into compliance with Federal Motor Carrier Safety Administration regulations which will eliminate the possibility of federal sanctions against our federal-aid highway funds. These funds are currently in jeopardy due to Alaska's non-compliance.

Exemptions are included to expand the military exemption language to include more service members and to allow a non-CDL holder to operate snow removal equipment in case of emergency.

Chairman Bob Lynn
House State Affairs Committee
February 19, 2007

In line with FMCSA regulations, this change also allows a non-resident to operate a CMV using their home state license.

Bill language clearly states that 19 year old drivers may be issued a CDL to operate in intra state commerce. This clears up some previous ambiguities.

Many of the changes update penalties for drivers for disqualifying offenses. This will assist in keeping bad or unfit drivers off our highways thereby improving the safe driving environment.

To reiterate, Mr. Chairman, we support HB126 and urge the committee to move the bill with do pass recommendations.

Sincerely,



Aves D. Thompson
Executive Director

cc: Representative Kyle Johansen
Sponsor

Table
Penalties for Noncompliance and
Section of HB 126 to Federal Authority

| | |
|------------|---|
| Penalties | 49 USC 31312 49 USC 31314 |
| Section 1 | 49 USC 30304(e) 49 CFR 383.73(a)(3) |
| Section 2 | 49 CFR 383.141 49 CFR 384.205 49 CFR 384.206 |
| Section 3 | 49 CFR 383.3(c) 49 CFR 383.3(d) 49 CFR 383.212 |
| Section 4 | 49 CFR 383.5 49 CFR 384.201 49 CFR 383.210 |
| Section 5 | 49 CFR 383.5 49 CFR 384.212 |
| Section 6 | 49 CFR 383.93 49 CFR 383.123 49 CFR 384.201 |
| Section 7 | 49 CFR 383.23(c) |
| Section 8 | 49 CFR 383.71 49 CFR 384.206 |
| Section 9 | 49 USC 31311(a)(18) 49 CFR 384.207 49 CFR 384.225 |
| Section 10 | 49 USC 31311(a)(19) 49 CFR 384.207 49 CFR 384.225 |
| Section 11 | 49 CFR 384.225(c) |
| Section 12 | 49 USC 31311(a)(9) |
| Section 13 | 49 CFR 383.51 |
| Section 14 | 49 CFR 383.51 |
| Section 15 | 49 CFR 391.11(b)(1) |
| Section 16 | 49 USC 31310(b)(1)(D) 49 USC 31310(b)(1)(E) |
| Section 17 | 49 CFR 383.51(a)(4) 49 CFR 383.52(e) |
| Section 18 | 49 USC 5105 49 USC 5109 49 CFR 383.51(Tables) |
| Section 19 | 49 CFR 383.51 (Tables) |
| Section 20 | Conforming amendment. It requires |

| | |
|------------|--|
| | surrender of license of person who is disqualified from driving a commercial motor vehicle in an administrative action by the DMV. |
| Section 21 | 49 CFR 383.51(Table 4) |
| Section 22 | Conforming amendment. It requires surrender of license of person who is disqualified from driving a commercial motor vehicle in an administrative action by the DMV. |
| Section 23 | 49 USC 31310(f) 49 CFR 383.52 49 CFR 383.53 |
| Section 24 | 49 CFR 383.5 49 CFR 383.51 |
| Section 25 | 49 USC 31301(12) |
| Section 26 | 49 CFR 383.5 |
| Section 27 | Conforming amendment |
| Section 28 | DMV Forms |
| Section 29 | 49 CFR 383.5 49 CFR 383.51 |
| Section 30 | Conforming amendment |
| Section 31 | Repealed section. |
| Section 32 | Authority to DMV for regulations |
| Section 33 | Effective Date for section 32 |
| Section 34 | Effective Date for rest of sections |

PUBLIC LAW 106-159—DEC. 9, 1999

MOTOR CARRIER SAFETY IMPROVEMENT ACT
OF 1999

Public Law 106-159
106th Congress

An Act

Dec. 9, 1999
[H.R. 3419]

To amend title 49, United States Code, to establish the Federal Motor Carrier Safety Administration, and for other purposes.

Motor Carrier
Safety
Improvement Act
of 1999.
49 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Motor Carrier Safety Improvement Act of 1999".

(b) TABLE OF CONTENTS.—

- Sec. 1. Short title; table of contents.
- Sec. 2. Secretary defined.
- Sec. 3. Findings.
- Sec. 4. Purposes.

TITLE I—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

- Sec. 101. Establishment of Federal Motor Carrier Safety Administration.
- Sec. 102. Revenue aligned budget authority.
- Sec. 103. Additional funding for motor carrier safety grant program.
- Sec. 104. Motor carrier safety strategy.
- Sec. 105. Commercial motor vehicle safety advisory committee.
- Sec. 106. Saving provisions.
- Sec. 107. Effective date.

TITLE II—COMMERCIAL MOTOR VEHICLE AND DRIVER SAFETY

- Sec. 201. Disqualifications.
- Sec. 202. Requirements for State participation.
- Sec. 203. State noncompliance.
- Sec. 204. Checks before issuance of driver's licenses.
- Sec. 205. Registration enforcement.
- Sec. 206. Delinquent payment of penalties.
- Sec. 207. State cooperation in registration enforcement.
- Sec. 208. Imminent hazard.
- Sec. 209. Household goods amendments.
- Sec. 210. New motor carrier entrant requirements.
- Sec. 211. Certification of safety auditors.
- Sec. 212. Commercial van rulemaking.
- Sec. 213. 24-hour staffing of telephone hotline.
- Sec. 214. CDL school bus endorsement.
- Sec. 215. Medical certificate.
- Sec. 216. Implementation of Inspector General recommendations.
- Sec. 217. Periodic refiling of motor carrier identification reports.
- Sec. 218. Border staffing standards.
- Sec. 219. Foreign motor carrier penalties and disqualifications.
- Sec. 220. Traffic law initiative.
- Sec. 221. State-to-State notification of violations data.
- Sec. 222. Minimum and maximum assessments.
- Sec. 223. Motor carrier safety progress report.
- Sec. 224. Study of commercial motor vehicle crash causation.
- Sec. 225. Data collection and analysis.
- Sec. 226. Drug test results study.
- Sec. 227. Approval of agreements.
- Sec. 228. DOT authority.

SEC. 2. SECRETARY DEFINED.

49 USC 101 note.

In this Act, the term "Secretary" means the Secretary of Transportation.

SEC. 3. FINDINGS.

49 USC 113 note.

Congress makes the following findings:

(1) The current rate, number, and severity of crashes involving motor carriers in the United States are unacceptable.

(2) The number of Federal and State commercial motor vehicle and operator inspections is insufficient and civil penalties for violators must be utilized to deter future violations.

(3) The Department of Transportation is failing to meet statutorily mandated deadlines for completing rulemaking proceedings on motor carrier safety and, in some significant safety rulemaking proceedings, including driver hours-of-service regulations, extensive periods have elapsed without progress toward resolution or implementation.

(4) Too few motor carriers undergo compliance reviews and the Department's data bases and information systems require substantial improvement to enhance the Department's ability to target inspection and enforcement resources toward the most serious safety problems and to improve States' ability to keep dangerous drivers off the roads.

(5) Additional safety inspectors and inspection facilities are needed in international border areas to ensure that commercial motor vehicles, drivers, and carriers comply with United States safety standards.

(6) The Department should rigorously avoid conflicts of interest in federally funded research.

(7) Meaningful measures to improve safety must be implemented expeditiously to prevent increases in motor carrier crashes, injuries, and fatalities.

(8) Proper use of Federal resources is essential to the Department's ability to improve its research, rulemaking, oversight, and enforcement activities related to commercial motor vehicles, operators, and carriers.

SEC. 4. PURPOSES.

49 USC 113 note.

The purposes of this Act are—

(1) to improve the administration of the Federal motor carrier safety program and to establish a Federal Motor Carrier Safety Administration in the Department of Transportation; and

(2) to reduce the number and severity of large-truck involved crashes through more commercial motor vehicle and operator inspections and motor carrier compliance reviews, stronger enforcement measures against violators, expedited completion of rulemaking proceedings, scientifically sound research, and effective commercial driver's license testing, recordkeeping and sanctions.

TITLE I—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

SEC. 101. ESTABLISHMENT OF FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION.

(a) IN GENERAL.—Chapter 1 of title 49, United States Code, is amended by adding at the end the following:

“§ 113. Federal Motor Carrier Safety Administration

“(a) IN GENERAL.—The Federal Motor Carrier Safety Administration shall be an administration of the Department of Transportation.

“(b) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in motor carrier transportation.

“(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in motor carrier safety. The Administrator shall report directly to the Secretary of Transportation.

“(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

“(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Federal Motor Carrier Safety Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

“(f) POWERS AND DUTIES.—The Administrator shall carry out—

“(1) duties and powers related to motor carriers or motor carrier safety vested in the Secretary by chapters 5, 51, 55, 57, 59, 133 through 149, 311, 313, 315, and 317 and by section 18 of the Noise Control Act of 1972 (42 U.S.C. 4917; 86 Stat. 1249-1250); except as otherwise delegated by the Secretary to any agency of the Department of Transportation other than the Federal Highway Administration, as of October 8, 1999; and

“(2) additional duties and powers prescribed by the Secretary.

“(g) LIMITATION ON TRANSFER OF POWERS AND DUTIES.—A duty or power specified in subsection (f)(1) may only be transferred to another part of the Department when specifically provided by law.

“(h) EFFECT OF CERTAIN DECISIONS.—A decision of the Administrator involving a duty or power specified in subsection (f)(1) and involving notice and hearing required by law is administratively final.

“(i) CONSULTATION.—The Administrator shall consult with the Federal Highway Administrator and with the National Highway

Traffic Safety Administrator on matters related to highway and motor carrier safety.”

(b) ADMINISTRATIVE EXPENSES.—Section 104(a)(1) of title 23, United States Code, is amended—

(1) in paragraph (1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by moving the text of such clauses 2 ems to the right;

(2) in paragraph (1) by striking “exceed 1½ percent of all sums so made available, as the Secretary determines necessary—” and inserting “exceed—

“(A) 1⅙ percent of all sums so made available, as the Secretary determines necessary—”;

(3) by striking the period at the end of paragraph (1)(A)(ii) (as redesignated by paragraphs (1) and (2) of this subsection) and inserting “; and” and the following:

“(B) one-third of 1 percent of all sums so made available, as the Secretary determines necessary, to administer the provisions of law to be financed from appropriations for motor carrier safety programs and motor carrier safety research.”; and

(4) by adding at the end the following:

“(4) LIMITATION ON TRANSFERABILITY.—Unless expressly authorized by law, the Secretary may not transfer any sums deducted under paragraph (1) to a Federal agency or entity other than the Federal Highway Administration and the Federal Motor Carrier Safety Administration.”

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 1 of title 49, United States Code, is amended by adding at the end the following:

“113. Federal Motor Carrier Safety Administration.”

(2) FEDERAL HIGHWAY ADMINISTRATION.—Section 104 of title 49, United States Code, is amended—

(A) in subsection (c)—

(i) by striking the semicolon at the end of paragraph (1) and inserting “; and”;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2);

(B) by striking subsection (d); and

(C) by redesignating subsection (e) as subsection (d).

(d) POSITIONS IN EXECUTIVE SERVICE.—

(1) ADMINISTRATOR.—Section 5314 of title 5, United States Code, is amended by inserting after

“Administrator of the National Highway Traffic Safety Administration.”

the following:

“Administrator of the Federal Motor Carrier Safety Administration.”

(2) DEPUTY AND ASSISTANT ADMINISTRATORS.—Section 5316 of title 5, United States Code, is amended by inserting after

“Deputy Administrator of the National Highway Traffic Safety Administration.”

the following:

“Deputy Administrator of the Federal Motor Carrier Safety Administration.”

“Assistant Federal Motor Carrier Safety Administrator.”

(e) **PERSONNEL LEVELS.**—The number of personnel positions at the Office of Motor Carrier Safety (and, beginning on January 1, 2000, the Federal Motor Carrier Safety Administration) at its headquarters location in fiscal year 2000 shall not be increased above the level transferred from the Federal Highway Administration to the Office of Motor Carrier Safety. The Secretary shall provide detailed justifications to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives for the personnel requested for fiscal years 2001, 2002, and 2003 for the Federal Motor Carrier Safety Administration when the President submits his budget, including a justification for increasing personnel at headquarters above the levels so transferred.

49 USC 31136
note.

(f) **AUTHORITY TO PROMULGATE SAFETY STANDARDS FOR RETROFITTING.**—The authority under title 49, United States Code, to promulgate safety standards for commercial motor vehicles and equipment subsequent to initial manufacture is vested in the Secretary and may be delegated.

49 USC 330 note.

(g) **CONFLICTS OF INTEREST.**—

(1) **COMPLIANCE WITH REGULATION.**—In awarding any contract for research, the Secretary shall comply with section 1252.209-70 of title 48, Code of Federal Regulations, as in effect on the date of the enactment of this section. The Secretary shall require that the text of such section be included in any request for proposal and contract for research made by the Secretary.

(2) **STUDY.**—

(A) **IN GENERAL.**—The Secretary shall conduct a study to determine whether or not compliance with the section referred to in paragraph (1) is sufficient to avoid conflicts of interest in contracts for research awarded by the Secretary and to evaluate whether or not compliance with such section unreasonably delays or burdens the awarding of such contracts.

(B) **CONSULTATION.**—In conducting the study under this paragraph, the Secretary shall consult, as appropriate, with the Inspector General of the Department of Transportation, the Comptroller General, the heads of other Federal agencies, research organizations, industry representatives, employee organizations, safety organizations, and other entities.

Deadline.

(C) **REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the results of the study conducted under this paragraph.

SEC. 102. REVENUE ALIGNED BUDGET AUTHORITY.

(a) **IN GENERAL.**—Chapter 1 of title 23, United States Code, is amended—

(1) by redesignating the first section 110, relating to uniform transferability of Federal-aid highway funds, as section 126 and moving and inserting such section after section 125 of such chapter; and

(2) in the remaining section 110, relating to revenue aligned budget authority—

(A) in subsection (a)(2) by inserting "and the motor carrier safety grant program" after "relief"); and

(B) in subsection (b)(1)(A)—

(i) by inserting "and the motor carrier safety grant program" after "program";

(ii) by striking "title and" and inserting "title," and

(iii) by inserting ", and subchapter I of chapter 311 of title 49" after "21st Century".

(b) CONFORMING AMENDMENT.—The analysis for such chapter is amended—

(1) by striking

"110. Uniform transferability of Federal-aid highway funds.;"

(2) by inserting after the item relating to section 125 the following:

"126. Uniform transferability of Federal-aid highway funds.;"

and

(3) in the item relating to section 163 by striking "Sec.".

SEC. 103. ADDITIONAL FUNDING FOR MOTOR CARRIER SAFETY GRANT PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to carry out section 31102 of title 49, United States Code, \$75,000,000 for each of fiscal years 2001 through 2003.

(b) INCREASED AUTHORIZATIONS FOR MOTOR CARRIER SAFETY GRANTS.—

(1) IN GENERAL.—Section 4003 of the Transportation Equity Act for the 21st Century (112 Stat. 395-398) is amended by adding at the end the following:

49 USC 31104
note.

"(i) INCREASED AUTHORIZATIONS FOR MOTOR CARRIER SAFETY GRANTS.—The amount made available to incur obligations to carry out section 31102 of title 49, United States Code, by section 31104(a) of such title for each of fiscal years 2001 through 2003 shall be increased by \$65,000,000."

(2) CORRESPONDING REDUCTION TO OBLIGATION CEILING.—Section 1102 of such Act (23 U.S.C. 104 note; 112 Stat. 1115-1118) is amended by adding at the end the following:

"(j) REDUCTION IN OBLIGATION CEILING.—The limitation on obligations imposed by subsection (a) for each of fiscal years 2001 through 2003 shall be reduced by \$65,000,000."

(c) MAINTENANCE OF EFFORT.—The Secretary may not make, from funds made available by or under this section (including any amendment made by this section), a grant to a State unless the State first enters into a binding agreement with the Secretary that provides that the total expenditures of amounts of the State and its political subdivisions (not including amounts of the United States) for the development or implementation of programs for improving motor carrier safety and enforcement of regulations, standards, and orders of the United States on commercial motor vehicle safety, hazardous materials transportation safety, and compatible State regulations, standards, and orders will be maintained at a level at least equal to the average level of such expenditures for fiscal years 1997, 1998, and 1999.

49 USC 31102
note.

(d) **EMERGENCY CDL GRANTS.**—Section 31107 of title 49, United States Code, is amended by adding at the end the following:

“(c) **EMERGENCY CDL GRANTS.**—From amounts made available by subsection (a) for a fiscal year, the Secretary of Transportation may make a grant of up to \$1,000,000 to a State whose commercial driver’s license program may fail to meet the compliance requirements of section 31311(a).”.

49 USC 31102
note.

(e) **STATE COMPLIANCE WITH CDL REQUIREMENTS.**—

(1) **WITHHOLDING OF ALLOCATION FOR NONCOMPLIANCE.**—

If a State is not in substantial compliance with each requirement of section 31311 of title 49, United States Code, the Secretary shall withhold all amounts that would be allocated, but for this paragraph, to the State from funds made available by or under this section (including any amendment made by this section).

(2) **PERIOD OF AVAILABILITY OF WITHHELD FUNDS.**—Any funds withheld under paragraph (1) from any State shall remain available until June 30 of the fiscal year for which the funds are authorized to be appropriated.

(3) **ALLOCATION OF WITHHELD FUNDS AFTER COMPLIANCE.**—If, before the last day of the period for which funds are withheld under paragraph (1) from allocation are to remain available for allocation to a State under paragraph (2), the Secretary determines that the State is in substantial compliance with each requirement of section 31311 of title 49, United States Code, the Secretary shall allocate to the State the withheld funds.

(4) **PERIOD OF AVAILABILITY OF SUBSEQUENTLY ALLOCATED FUNDS.**—Any funds allocated pursuant to paragraph (3) shall remain available for expenditure until the last day of the first fiscal year following the fiscal year in which the funds are so allocated. Sums not expended at the end of such period are released to the Secretary for reallocation.

(5) **EFFECT OF NONCOMPLIANCE.**—If, on June 30 of the fiscal year in which funds are withheld from allocation under paragraph (1), the State is not substantially complying with each requirement of section 31311 of title 49, United States Code, the funds are released to the Secretary for reallocation.

49 USC 31100
note.

SEC. 104. MOTOR CARRIER SAFETY STRATEGY.

(a) **SAFETY GOALS.**—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving commercial motor vehicle, operator, and carrier safety. The strategy shall include an annual plan and schedule for achieving, at a minimum, the following goals:

(1) Reducing the number and rates of crashes, injuries, and fatalities involving commercial motor vehicles.

(2) Improving the consistency and effectiveness of commercial motor vehicle, operator, and carrier enforcement and compliance programs.

(3) Identifying and targeting enforcement efforts at high-risk commercial motor vehicles, operators, and carriers.

(4) Improving research efforts to enhance and promote commercial motor vehicle, operator, and carrier safety and performance.

(b) **CONTENTS OF STRATEGY.**—

(1) **MEASURABLE GOALS.**—The strategy and annual plans under subsection (a) shall include, at a minimum, specific numeric or measurable goals designed to achieve the strategic goals of subsection (a). The purposes of the numeric or measurable goals are as follows:

(A) To increase the number of inspections and compliance reviews to ensure that all high-risk commercial motor vehicles, operators, and carriers are examined.

(B) To eliminate, with meaningful safety measures, the backlog of rulemakings.

(C) To improve the quality and effectiveness of data bases by ensuring that all States and inspectors accurately and promptly report complete safety information.

(D) To eliminate, with meaningful civil and criminal penalties for violations, the backlog of enforcement cases.

(E) To provide for a sufficient number of Federal and State safety inspectors, and provide adequate facilities and equipment, at international border areas.

(2) **RESOURCE NEEDS.**—In addition, the strategy and annual plans shall include estimates of the funds and staff resources needed to accomplish each activity. Such estimates shall also include the staff skills and training needed for timely and effective accomplishment of each goal.

(3) **SAVINGS CLAUSE.**—In developing and assessing progress toward meeting the measurable goals set forth in this subsection, the Secretary and the Federal Motor Carrier Safety Administrator shall not take any action that would impinge on the due process rights of motor carriers and drivers.

(c) **SUBMISSION WITH THE PRESIDENT'S BUDGET.**—Beginning with fiscal year 2001 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan at the same time as the President's budget submission.

(d) **ANNUAL PERFORMANCE.**—

(1) **ANNUAL PERFORMANCE AGREEMENT.**—For each of fiscal years 2001 through 2003, the following officials shall enter into annual performance agreements:

(A) The Secretary and the Federal Motor Carrier Safety Administrator.

(B) The Administrator and the Deputy Federal Motor Carrier Safety Administrator.

(C) The Administrator and the Chief Safety Officer of the Federal Motor Carrier Safety Administration.

(D) The Administrator and the regulatory ombudsman of the Administration designated by the Administrator under subsection (f).

(2) **GOALS.**—Each annual performance agreement entered into under paragraph (1) shall include the appropriate numeric or measurable goals of subsection (b).

(3) **PROGRESS ASSESSMENT.**—Consistent with the current performance appraisal system of the Department of Transportation, the Secretary shall assess the progress of each official (other than the Secretary) referred to in paragraph (1) toward achieving the goals in his or her performance agreement. The Secretary shall convey the assessment to such official, including identification of any deficiencies that should be remediated before the next progress assessment.

(4) ADMINISTRATION.—In deciding whether or not to award a bonus or other achievement award to an official of the Administration who is a party to a performance agreement required by this subsection, the Secretary shall give substantial weight to whether the official has made satisfactory progress toward meeting the goals of his or her performance agreement.

(e) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than semi-annually, the Secretary and the Administrator shall assess the progress of the Administration toward achieving the strategic goals of subsection (a). The Secretary and the Administrator shall convey their assessment to the employees of the Administration and shall identify any deficiencies that should be remediated before the next progress assessment.

(2) REPORT TO CONGRESS.—The Secretary shall report annually to Congress the contents of each performance agreement entered into under subsection (d) and the official's performance relative to the goals of the performance agreement. In addition, the Secretary shall report to Congress on the performance of the Administration relative to the goals of the motor carrier safety strategy and annual plan under subsection (a).

(f) EXPEDITING REGULATORY PROCEEDINGS.—The Administrator shall designate a regulatory ombudsman to expedite rulemaking proceedings. The Secretary and the Administrator shall each delegate to the ombudsman such authority as may be necessary for the ombudsman to expedite rulemaking proceedings of the Administration to comply with statutory and internal departmental deadlines, including authority to—

(1) make decisions to resolve disagreements between officials in the Administration who are participating in a rulemaking process; and

(2) ensure that sufficient staff are assigned to rulemaking projects to meet all deadlines.

49 USC 31100
note.

SEC. 105. COMMERCIAL MOTOR VEHICLE SAFETY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary may establish a commercial motor vehicle safety advisory committee to provide advice and recommendations on a range of motor carrier safety issues.

(b) COMPOSITION.—The members of the advisory committee shall be appointed by the Secretary and shall include representatives of the motor carrier industry, drivers, safety advocates, manufacturers, safety enforcement officials, law enforcement agencies of border States, and other individuals affected by rulemakings under consideration by the Department of Transportation. Representatives of a single interest group may not constitute a majority of the members of the advisory committee.

(c) FUNCTION.—The advisory committee shall provide advice to the Secretary on commercial motor vehicle safety regulations and other matters relating to activities and functions of the Federal Motor Carrier Safety Administration.

(d) TERMINATION DATE.—The advisory committee shall remain in effect until September 30, 2003.

49 USC 113 note.

SEC. 106. SAVINGS PROVISION.

(a) TRANSFER OF ASSETS AND PERSONNEL.—Except as otherwise provided in this Act and the amendments made by this Act, those

personnel, property, and records employed, used, held, available, or to be made available in connection with a function transferred to the Federal Motor Carrier Safety Administration by this Act shall be transferred to the Administration for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds of the Office of Motor Carrier Safety (including any predecessor entity) shall also be transferred to the Administration.

(b) **LEGAL DOCUMENTS.**—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the Office, any officer or employee of the Office, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act or the amendments made by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Administration, any other authorized official, a court of competent jurisdiction, or operation of law.

(c) **PROCEEDINGS.**—

(1) **IN GENERAL.**—The provisions of this Act shall not affect any proceedings or any application for any license pending before the Office at the time this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) **ORDERLY TRANSFER.**—The Secretary is authorized to provide for the orderly transfer of pending proceedings from the Office.

(d) **SUITS.**—

(1) **IN GENERAL.**—This Act shall not affect suits commenced before the date of the enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceeding shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) **SUITS BY OR AGAINST OMCS.**—Any suit by or against the Office begun before January 1, 2000, shall be continued, insofar as it involves a function retained and transferred under this Act, with the Administration (to the extent the suit involves

functions transferred to the Administration under this Act) substituted for the Office.

(3) REMANDED CASES.—If the court in a suit described in paragraph (1) remands a case to the Administration, subsequent proceedings related to such case shall proceed in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(e) CONTINUANCE OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Office shall abate by reason of the enactment of this Act. No cause of action by or against the Office, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act.

(f) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, an officer or employee of the Administration may, for purposes of performing a function transferred by this Act or the amendments made by this Act, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this Act or the amendments made by this Act.

(g) REFERENCES.—Any reference to the Office in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Office or an officer or employee of the Office is deemed to refer to the Administration or a member or employee of the Administration, as appropriate.

SEC. 107. EFFECTIVE DATE.

49 USC 104 note.

(a) IN GENERAL.—This Act shall take effect on the date of the enactment of this Act; except that the amendments made by section 101 shall take effect on January 1, 2000.

31 USC 1105 note.

(b) BUDGET SUBMISSIONS.—The President's budget submission for fiscal year 2001 and each fiscal year thereafter shall reflect the establishment of the Federal Motor Carrier Safety Administration in accordance with this Act.

TITLE II—COMMERCIAL MOTOR VEHICLE AND DRIVER SAFETY

SEC. 201. DISQUALIFICATIONS.

(a) DRIVING WHILE DISQUALIFIED AND CAUSING A FATALITY.—

(1) FIRST VIOLATION.—Section 31310(b)(1) of title 49, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph

(C) and inserting a semicolon; and

(C) by adding at the end the following:

"(D) committing a first violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle; or

"(E) convicted of causing a fatality through negligent or criminal operation of a commercial motor vehicle."

(2) SECOND AND MULTIPLE VIOLATIONS.—Section 31310(c)(1) of such title is amended—

(A) by striking "or" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F);

(C) by inserting after subparagraph (C) the following:

"(D) committing more than one violation of driving a commercial motor vehicle when the individual's commercial driver's license is revoked, suspended, or canceled based on the individual's operation of a commercial motor vehicle or when the individual is disqualified from operating a commercial motor vehicle based on the individual's operation of a commercial motor vehicle;

"(E) convicted of more than one offense of causing a fatality through negligent or criminal operation of a commercial motor vehicle; or"; and

(D) in subparagraph (F) (as redesignated by subparagraph (B) of this paragraph) by striking "clauses (A)–(C) of this paragraph" and inserting "subparagraphs (A) through (E)".

(3) CONFORMING AMENDMENT.—Section 31301(12)(C) of such title is amended by inserting ", other than a violation to which section 31310(b)(1)(E) or 31310(c)(1)(E) applies" after "a fatality".

(b) EMERGENCY DISQUALIFICATION; NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.—Section 31310 of such title is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (h), (i), and (j), respectively;

(2) by inserting after subsection (e) the following:

"(f) EMERGENCY DISQUALIFICATION.—

"(1) LIMITED DURATION.—The Secretary shall disqualify an individual from operating a commercial motor vehicle for not to exceed 30 days if the Secretary determines that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 5102).

"(2) AFTER NOTICE AND HEARING.—The Secretary shall disqualify an individual from operating a commercial motor vehicle for more than 30 days if the Secretary determines, after notice and an opportunity for a hearing, that allowing the individual to continue to operate a commercial motor vehicle would create an imminent hazard (as such term is defined in section 5102).

"(g) NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.—

"(1) ISSUANCE OF REGULATIONS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations providing for the disqualification by the Secretary from operating a commercial motor vehicle of an individual who holds a commercial driver's license and who has been convicted of—

"(A) a serious offense involving a motor vehicle (other than a commercial motor vehicle) that has resulted in the revocation, cancellation, or suspension of the individual's license; or

"(B) a drug or alcohol related offense involving a motor vehicle (other than a commercial motor vehicle).

Deadline.

“(2) REQUIREMENTS FOR REGULATIONS.—Regulations issued under paragraph (1) shall establish the minimum periods for which the disqualifications shall be in effect, but in no case shall the time periods for disqualification for noncommercial motor vehicle violations be more stringent than those for offenses or violations involving a commercial motor vehicle. The Secretary shall determine such periods based on the seriousness of the offenses on which the convictions are based.”; and

(3) in subsection (h) (as redesignated by paragraph (1) of this subsection) by striking “(b)–(e)” each place it appears and inserting “(b) through (g)”.

(c) SERIOUS TRAFFIC VIOLATIONS.—Section 31301(12) of such title is amended—

(1) by striking “and” at the end of subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (G); and

(3) by inserting after subparagraph (C) the following:

“(D) driving a commercial motor vehicle when the individual has not obtained a commercial driver’s license;

“(E) driving a commercial motor vehicle when the individual does not have in his or her possession a commercial driver’s license unless the individual provides, by the date that the individual must appear in court or pay any fine with respect to the citation, to the enforcement authority that issued the citation proof that the individual held a valid commercial driver’s license on the date of the citation;

“(F) driving a commercial motor vehicle when the individual has not met the minimum testing standards—

“(i) under section 31305(a)(3) for the specific class of vehicle the individual is operating; or

“(ii) under section 31305(a)(5) for the type of cargo the vehicle is carrying; and”.

(d) CONFORMING AMENDMENTS.—Section 31305(b)(1) of such title is amended—

(1) by striking “to operate the vehicle”; and

(2) by inserting before the period at the end the following: “to operate the vehicle and has a commercial driver’s license to operate the vehicle”.

SEC. 202. REQUIREMENTS FOR STATE PARTICIPATION.

(a) REQUESTS FOR DRIVING RECORD INFORMATION.—Section 31311(a)(6) of title 49, United States Code, is amended—

(1) by inserting “or renewing such a license” before the comma; and

(2) by striking “commercial” the second place it appears.

(b) RECORDING OF VIOLATIONS.—Section 31311(a)(8) of such title is amended by inserting before the period at the end the following: “, and the violation that resulted in the disqualification, revocation, suspension, or cancellation shall be recorded”.

(c) NOTIFICATION OF STATE OFFICIALS.—Section 31311(a)(9) of such title is amended to read as follows:

“(9) If an individual violates a State or local law on motor vehicle traffic control (except a parking violation) and the individual—

“(A) has a commercial driver’s license issued by another State; or

“(B) is operating a commercial vehicle without a commercial driver’s license and has a driver’s license issued by another State, the State in which the violation occurred shall notify a State official designated by the issuing State of the violations not later than 10 days after the date the individual is found to have committed the violation.”

(d) PROVISIONAL LICENSES.—Section 31311(a)(10) of such title is amended—

(1) by striking “(10)” and inserting “(10)(A)”; and

(2) by adding at the end the following:

“(B) The State may not issue a special license or permit (including a provisional or temporary license) to an individual who holds a commercial driver’s license that permits the individual to drive a commercial motor vehicle during a period in which—

“(i) the individual is disqualified from operating a commercial motor vehicle; or

“(ii) the individual’s driver’s license is revoked, suspended, or canceled.”

(e) PENALTIES.—Section 31311(a)(13) of such title is amended—

(1) by inserting “consistent with this chapter that” after “penalties”; and

(2) by striking “vehicle” the first place it appears and all that follows through the period at the end and inserting “vehicle.”

(f) RECORDS OF VIOLATIONS.—Section 31311(a) of such title is amended by adding at the end the following:

“(18) The State shall maintain, as part of its driver information system, a record of each violation of a State or local motor vehicle traffic control law while operating a motor vehicle (except a parking violation) for each individual who holds a commercial driver’s license. The record shall be available upon request to the individual, the Secretary, employers, prospective employers, State licensing and law enforcement agencies, and their authorized agents.”

(g) MASKING.—Section 31311(a) of such title is further amended by adding at the end the following:

“(19) The State shall—

“(A) record in the driving record of an individual who has a commercial driver’s license issued by the State; and

“(B) make available to all authorized persons and governmental entities having access to such record, all information the State receives under paragraph (9) with respect to the individual and every violation by the individual involving a motor vehicle (including a commercial motor vehicle) of a State or local law on traffic control (except a parking violation), not later than 10 days after the date of receipt of such information or the date of such violation, as the case may be. The State may not allow information regarding such violations to be withheld or masked in any way from the record of an individual possessing a commercial driver’s license.”

(h) NONCOMMERCIAL MOTOR VEHICLE CONVICTIONS.—Section 31311(a) of such title is further amended by adding at the end the following:

"(20) The State shall revoke, suspend, or cancel the commercial driver's license of an individual in accordance with regulations issued by the Secretary to carry out section 31310(g)."

SEC. 203. STATE NONCOMPLIANCE.

(a) **IN GENERAL.**—Chapter 313 of title 49, United States Code, is amended by inserting after section 31311 the following:

"§ 31312. Decertification authority

"(a) **IN GENERAL.**—If the Secretary of Transportation determines that a State is in substantial noncompliance with this chapter, the Secretary shall issue an order to—

"(1) prohibit that State from carrying out licensing procedures under this chapter; and

"(2) prohibit that State from issuing any commercial driver's licenses until such time the Secretary determines such State is in substantial compliance with this chapter.

"(b) **EFFECT ON OTHER STATES.**—A State (other than a State subject to an order under subsection (a)) may issue a non-resident commercial driver's license to an individual domiciled in a State that is prohibited from such activities under subsection (a) if that individual meets all requirements of this chapter and the non-resident licensing requirements of the issuing State.

"(c) **PREVIOUSLY ISSUED LICENSES.**—Nothing in this section shall be construed as invalidating or otherwise affecting commercial driver's licenses issued by a State before the date of issuance of an order under subsection (a) with respect to the State."

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 313 of such title is amended by inserting after the item relating to section 31311 the following:

"31312. Decertification authority."

SEC. 204. CHECKS BEFORE ISSUANCE OF DRIVER'S LICENSES.

Section 30304 of title 49, United States Code, is amended by adding at the end the following:

"(e) **DRIVER RECORD INQUIRY.**—Before issuing a motor vehicle operator's license to an individual or renewing such a license, a State shall request from the Secretary information from the National Driver Register under section 30302 and the commercial driver's license information system under section 31309 on the individual's driving record."

SEC. 205. REGISTRATION ENFORCEMENT.

Section 13902 of title 49, United States Code, is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) **PENALTIES FOR FAILURE TO COMPLY WITH REGISTRATION REQUIREMENTS.**—In addition to other penalties available under law, motor carriers that fail to register their operations as required by this section or that operate beyond the scope of their registrations may be subject to the following penalties:

"(1) **OUT-OF-SERVICE ORDERS.**—If, upon inspection or investigation, the Secretary determines that a motor vehicle providing transportation requiring registration under this section is operating without a registration or beyond the scope of its registration, the Secretary may order the vehicle out-of-service. Subsequent to the issuance of the out-of-service order, the

Secretary shall provide an opportunity for review in accordance with section 554 of title 5, United States Code; except that such review shall occur not later than 10 days after issuance of such order.

"(2) PERMISSION FOR OPERATIONS.—A person domiciled in a country contiguous to the United States with respect to which an action under subsection (c)(1)(A) or (c)(1)(B) is in effect and providing transportation for which registration is required under this section shall maintain evidence of such registration in the motor vehicle when the person is providing the transportation. The Secretary shall not permit the operation in interstate commerce in the United States of any motor vehicle in which there is not a copy of the registration issued pursuant to this section."

SEC. 206. DELINQUENT PAYMENT OF PENALTIES.

(a) REVOCATION OF REGISTRATION.—Section 13905(c) of title 49, United States Code, is amended—

(1) by inserting "(1) IN GENERAL.—" before "On application";

(2) by inserting "(A)" before "suspend";

(3) by striking the period at the end of the second sentence and inserting "; and (B) suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder: (i) for failure to pay a civil penalty imposed under chapter 5, 51, 149, or 311 of this title; or (ii) for failure to arrange and abide by an acceptable payment plan for such civil penalty, within 90 days of the time specified by order of the Secretary for the payment of such penalty. Subparagraph (B) shall not apply to any person who is unable to pay a civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

"(2) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and opportunity for public comment, shall issue regulations to provide for the suspension, amendment, or revocation of a registration under this part for failure to pay a civil penalty as provided in paragraph (1)(B)."; and

Deadline

(4) by indenting paragraph (1) (as designated by paragraph (1) of this section) and aligning such paragraph with paragraph (2) of such section (as added by paragraph (3) of this section).

(b) PROHIBITED TRANSPORTATION BY COMMERCIAL MOTOR VEHICLE OPERATORS.—Section 521(b) of such title is amended—

(1) by redesignating paragraphs (8) through (13) as paragraphs (9) through (14), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) PROHIBITION ON OPERATION IN INTERSTATE COMMERCE AFTER NONPAYMENT OF PENALTIES.—

"(A) IN GENERAL.—An owner or operator of a commercial motor vehicle against whom a civil penalty is assessed under this chapter or chapter 51, 149, or 311 of this title and who does not pay such penalty or fails to arrange and abide by an acceptable payment plan for such civil penalty may not operate in interstate commerce beginning on the 91st day after the date specified by order of the Secretary for payment of such penalty. This paragraph shall not apply to any person who is unable to pay a

civil penalty because such person is a debtor in a case under chapter 11 of title 11, United States Code.

Deadline.

“(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this paragraph, the Secretary, after notice and an opportunity for public comment, shall issue regulations setting forth procedures for ordering commercial motor vehicle owners and operators delinquent in paying civil penalties to cease operations until payment has been made.”

SEC. 207. STATE COOPERATION IN REGISTRATION ENFORCEMENT.

Section 31102(b)(1) of title 49, United States Code, is amended—

(1) by aligning subparagraph (A) with subparagraph (B) of such section; and

(2) by striking subparagraph (R) and inserting the following:

“(R) ensures that the State will cooperate in the enforcement of registration requirements under section 13902 and financial responsibility requirements under sections 13906, 31138, and 31139 and regulations issued thereunder;”.

SEC. 208. IMMINENT HAZARD.

Section 521(b)(5)(B) of title 49, United States Code, is amended by striking “is likely to result in” and inserting “substantially increases the likelihood of”.

SEC. 209. HOUSEHOLD GOODS AMENDMENTS.

(a) DEFINITION OF HOUSEHOLD GOODS.—Section 13102(10)(A) of title 49, United States Code, is amended by striking “, including” and all that follows through “dwelling,” and inserting “, except such term does not include property moving from a factory or store, other than property that the householder has purchased with the intent to use in his or her dwelling and is transported at the request of, and the transportation charges are paid to the carrier by, the householder;”.

(b) ARBITRATION REQUIREMENTS.—Section 14708(b)(6) of such title is amended by striking “\$1,000” each place it appears and inserting “\$5,000”.

49 USC 14104
note.

(c) STUDY OF ENFORCEMENT OF CONSUMER PROTECTION RULES IN THE HOUSEHOLD GOODS MOVING INDUSTRY.—The Comptroller General shall conduct a study of the effectiveness of the Department of Transportation’s enforcement of household goods consumer protection rules under title 49, United States Code. The study shall also include a review of other potential methods of enforcing such rules, including allowing States to enforce such rules.

SEC. 210. NEW MOTOR CARRIER ENTRANT REQUIREMENTS.

(a) SAFETY REVIEWS.—Section 31144 of title 49, United States Code, is amended by adding at the end the following:

“(c) SAFETY REVIEWS OF NEW OPERATORS.—

Regulations.

“(1) IN GENERAL.—The Secretary shall require, by regulation, each owner and each operator granted new operating authority, after the date on which section 31148(b) is first implemented, to undergo a safety review within the first 18 months after the owner or operator, as the case may be, begins operations under such authority.

“(2) ELEMENTS.—In the regulations issued pursuant to paragraph (1), the Secretary shall establish the elements of the safety review, including basic safety management controls. In establishing such elements, the Secretary shall consider their effects on small businesses and shall consider establishing alternate locations where such reviews may be conducted for the convenience of small businesses.

“(3) PHASE-IN OF REQUIREMENT.—The Secretary shall phase in the requirements of paragraph (1) in a manner that takes into account the availability of certified motor carrier safety auditors.

“(4) NEW ENTRANT AUTHORITY.—Notwithstanding any other provision of this title, any new operating authority granted after the date on which section 31148(b) is first implemented shall be designated as new entrant authority until the safety review required by paragraph (1) is completed.”

(b) MINIMUM REQUIREMENTS.—The Secretary shall initiate a rulemaking to establish minimum requirements for applicant motor carriers, including foreign motor carriers, seeking Federal interstate operating authority to ensure applicant carriers are knowledgeable about applicable Federal motor carrier safety standards. As part of that rulemaking, the Secretary shall consider the establishment of a proficiency examination for applicant motor carriers as well as other requirements to ensure such applicants understand applicable safety regulations before being granted operating authority.

49 USC 31144
note.

SEC. 211. CERTIFICATION OF SAFETY AUDITORS.

(a) IN GENERAL.—Chapter 311 of title 49, United States Code, is amended by adding at the end the following:

“§ 31148. Certified motor carrier safety auditors

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this section, the Secretary of Transportation shall complete a rulemaking to improve training and provide for the certification of motor carrier safety auditors, including private contractors, to conduct safety inspection audits and reviews described in subsection (b).

Deadline.

“(b) CERTIFIED INSPECTION AUDIT REQUIREMENT.—Not later than 1 year after completion of the rulemaking required by subsection (a), any safety inspection audit or review required by, or based on the authority of, this chapter or chapter 5, 13, or 315 of this title and performed after December 31, 2002, shall be conducted by—

Deadline.

“(1) a motor carrier safety auditor certified under subsection (a); or

“(2) a Federal or State employee who, on the date of the enactment of this section, was qualified to perform such an audit or review.

“(c) EXTENSION.—If the Secretary determines that subsection (b) cannot be implemented within the 1-year period established by that subsection and notifies the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives of the determination and the reasons therefor, the Secretary may extend the deadline for compliance with subsection (b) by not more than 12 months.

“(d) **APPLICATION WITH OTHER AUTHORITY.**—The Secretary may not delegate the Secretary’s authority to private contractors to issue ratings or operating authority, and nothing in this section authorizes any private contractor to issue ratings or operating authority.

“(e) **OVERSIGHT RESPONSIBILITY.**—The Secretary shall have authority over any motor carrier safety auditor certified under subsection (a), including the authority to decertify a motor carrier safety auditor.”

(b) **CONFORMING AMENDMENT.**—The analysis for such chapter 311 is amended by adding at the end the following:

“31148. Certified motor carrier safety auditors.”

SEC. 212. COMMERCIAL VAN RULEMAKING.

Deadline.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete Department of Transportation’s rulemaking, Docket No. FHWA-99-5710, to amend Federal motor carrier safety regulations to determine which motor carriers operating commercial motor vehicles designed or used to transport between 9 and 15 passengers (including the driver) for compensation shall be covered. At a minimum, the rulemaking shall apply such regulations to—

- (1) commercial vans commonly referred to as “camionetas”; and
- (2) those commercial vans operating in interstate commerce outside commercial zones that have been determined to pose serious safety risks.

In no case should the rulemaking exempt from such regulations all motor carriers operating commercial vehicles designed or used to transport between 9 and 15 passengers (including the driver) for compensation.

SEC. 213. 24-HOUR STAFFING OF TELEPHONE HOTLINE.

Section 4017 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31143 note; 112 Stat. 413) is amended—

- (1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;
- (2) by inserting after subsection (b) the following:

“(c) **STAFFING.**—The toll-free telephone system shall be staffed 24 hours a day 7 days a week by individuals knowledgeable about Federal motor carrier safety regulations and procedures.”; and

- (3) in subsection (e) (as redesignated by paragraph (1) of this section)—
 - (A) by striking “104(a)” and inserting “104(a)(1)(B)”; and
 - (B) by striking “for each of fiscal years 1999” and inserting “for fiscal year 1999 and \$375,000 for each of fiscal years 2000”.

49 USC 31305
note.
Regulations.

SEC. 214. CDL SCHOOL BUS ENDORSEMENT.

The Secretary shall conduct a rulemaking to establish a special commercial driver’s license endorsement for drivers of school buses. The endorsement shall, at a minimum—

- (1) include a driving skills test in a school bus; and
- (2) address proper safety procedures for—
 - (A) loading and unloading children;
 - (B) using emergency exits; and
 - (C) traversing highway rail grade crossings.

SEC. 215. MEDICAL CERTIFICATE.

The Secretary shall initiate a rulemaking to provide for a Federal medical qualification certificate to be made a part of commercial driver's licenses.

49 USC 31305
note.
Regulations.

SEC. 216. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) **IN GENERAL.**—The Secretary shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report TR-1999-091, except to the extent that such recommendations are specifically addressed in sections 206, 208, 217, and 222 of this Act, including any amendments made by such sections.

(b) REPORTS TO CONGRESS.—

(1) **REPORTS BY THE SECRETARY.**—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the specific actions taken to implement such recommendations.

Deadline.

(2) **REPORTS BY THE INSPECTOR GENERAL.**—The Inspector General shall periodically transmit to the committees referred to in paragraph (1) a report assessing the Secretary's progress in implementing the recommendations referred to in subsection (a) and analyzing the number of violations cited by safety inspectors and the level of fines assessed and collected for such violations, and of the number of cases in which there are findings of extraordinary circumstances under section 222(c) of this Act and the circumstances in which these findings are made.

SEC. 217. PERIODIC REFILEING OF MOTOR CARRIER IDENTIFICATION REPORTS.

The Secretary shall amend section 385.21 of the Department of Transportation's regulations (49 CFR 385.21) to require periodic updating, not more frequently than once every 2 years, of the motor carrier identification report, form MCS-150, filed by each motor carrier conducting operations in interstate or foreign commerce. The initial update shall occur not later than 1 year after the date of the enactment of this Act.

Deadline.

SEC. 218. BORDER STAFFING STANDARDS.

(a) **DEVELOPMENT AND IMPLEMENTATION.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and implement appropriate staffing standards for Federal and State motor carrier safety inspectors in international border areas.

49 USC 31133
note.
Deadline.

(b) **FACTORS TO BE CONSIDERED.**—In developing standards under subsection (a), the Secretary shall consider volume of traffic, hours of operation of the border facility, types of commercial motor vehicles, types of cargo, delineation of responsibility between Federal and State inspectors, and such other factors as the Secretary determines appropriate.

(c) **MAINTENANCE OF EFFORT.**—The standards developed and implemented under subsection (a) shall ensure that the United

States and each State will not reduce its respective level of staffing of motor carrier safety inspectors in international border areas from its average level staffing for fiscal year 2000.

(d) BORDER COMMERCIAL MOTOR VEHICLE AND SAFETY ENFORCEMENT PROGRAMS.—

(1) **ENFORCEMENT.**—If, on October 1, 2001, and October 1 of each fiscal year thereafter, the Secretary has not ensured that the levels of staffing required by the standards developed under subsection (a) are deployed, the Secretary should designate the amount made available for allocation under section 31104(f)(2)(B) of title 49, United States Code, for such fiscal year for States, local governments, and other persons for carrying out border commercial motor vehicle safety programs and enforcement activities and projects.

(2) **ALLOCATION.**—If the Secretary makes a designation of an amount under paragraph (1), such amount shall be allocated by the Secretary to State agencies, local governments, and other persons that use and train qualified officers and employees in coordination with State motor vehicle safety agencies.

(3) **LIMITATION.**—If the Secretary makes a designation pursuant to paragraph (1) for a fiscal year, the Secretary may not make a designation under section 31104(f)(2)(B) of title 49, United States Code, for such fiscal year.

49 USC 14901
note.

SEC. 219. FOREIGN MOTOR CARRIER PENALTIES AND DISQUALIFICATIONS.

(a) **GENERAL RULE.**—Subject to subsections (b) and (c), a foreign motor carrier or foreign motor private carrier (as such terms are defined under section 13102 of title 49, United States Code) that operates without authority, before the implementation of the land transportation provisions of the North American Free Trade Agreement, outside the boundaries of a commercial zone along the United States-Mexico border shall be liable to the United States for a civil penalty and shall be disqualified from operating a commercial motor vehicle anywhere within the United States as provided in subsections (b) and (c).

(b) **PENALTY FOR INTENTIONAL VIOLATION.**—The civil penalty for an intentional violation of subsection (a) by a carrier shall not be more than \$10,000 and may include a disqualification from operating a commercial motor vehicle anywhere within the United States for a period of not more than 6 months.

(c) **PENALTY FOR PATTERN OF INTENTIONAL VIOLATIONS.**—The civil penalty for a pattern of intentional violations of subsection (a) by a carrier shall not be more than \$25,000 and the carrier shall be disqualified from operating a commercial motor vehicle anywhere within the United States and the disqualification may be permanent.

(d) **LEASING.**—Before the implementation of the land transportation provisions of the North American Free Trade Agreement, during any period in which a suspension, condition, restriction, or limitation imposed under section 13902(c) of title 49, United States Code, applies to a motor carrier (as defined in section 13902(e) of such title), that motor carrier may not lease a commercial motor vehicle to another motor carrier or a motor private carrier to transport property in the United States.

(e) **SAVINGS CLAUSE.**—No provision of this section may be enforced if it is inconsistent with any international agreement of the United States.

(f) **ACTS OF EMPLOYEES.**—The actions of any employee driver of a foreign motor carrier or foreign motor private carrier committed without the knowledge of the carrier or committed unintentionally shall not be grounds for penalty or disqualification under this section.

SEC. 220. TRAFFIC LAW INITIATIVE.

49 USC 31131
note.

(a) **IN GENERAL.**—In cooperation with one or more States, the Secretary may carry out a program to develop innovative methods of improving motor carrier compliance with traffic laws. Such methods may include the use of photography and other imaging technologies.

(b) **REPORT.**—The Secretary shall transmit to Congress a report on the results of any program conducted under this section, together with any recommendations as the Secretary determines appropriate.

SEC. 221. STATE-TO-STATE NOTIFICATION OF VIOLATIONS DATA.

49 USC 31311
note.

(a) **DEVELOPMENT.**—In cooperation with the States, the Secretary shall develop a uniform system to support the electronic transmission of data State-to-State on convictions for all motor vehicle traffic control law violations by individuals possessing a commercial drivers' licenses as required by paragraphs (9) and (19) of section 31311(a) of title 49, United States Code.

(b) **STATUS REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the implementation of this section.

Deadline.

SEC. 222. MINIMUM AND MAXIMUM ASSESSMENTS.

49 USC 521 note.

(a) **IN GENERAL.**—The Secretary of Transportation should ensure that motor carriers operate safely by imposing civil penalties at a level calculated to ensure prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

(b) **ESTABLISHMENT.**—The Secretary—

(1) should establish and assess minimum civil penalties for each violation of a law referred to in subsection (a); and

(2) shall assess the maximum civil penalty for each violation of a law referred to in subsection (a) by any person who is found to have committed a pattern of violations of critical or acute regulations issued to carry out such a law or to have previously committed the same or a related violation of critical or acute regulations issued to carry out such a law.

(c) **EXTRAORDINARY CIRCUMSTANCES.**—If the Secretary determines and documents that extraordinary circumstances exist which merit the assessment of any civil penalty lower than any level established under subsection (b), the Secretary may assess such lower penalty. In cases where a person has been found to have previously committed the same or a related violation of critical or acute regulations issued to carry out a law referred to in subsection (a), extraordinary circumstances may be found to exist when the Secretary determines that repetition of such violation does not demonstrate a failure to take appropriate remedial action.

(d) REPORT TO CONGRESS.—

(1) **IN GENERAL.**—The Secretary shall conduct a study of the effectiveness of the revised civil penalties established in the Transportation Equity Act for the 21st Century and this Act in ensuring prompt and sustained compliance with Federal motor carrier safety and commercial driver's license laws.

(2) **SUBMISSION TO CONGRESS.**—The Secretary shall transmit the results of such study and any recommendations to Congress by September 30, 2002.

SEC. 223. MOTOR CARRIER SAFETY PROGRESS REPORT.

Not later than May 25, 2000, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a status report on the Department of Transportation's quantitative progress toward reducing motor carrier fatalities by 50 percent by the year 2009.

49 USC 31100
note.

SEC. 224. STUDY OF COMMERCIAL MOTOR VEHICLE CRASH CAUSATION.

(a) **OBJECTIVES.**—The Secretary shall conduct a comprehensive study to determine the causes of, and contributing factors to, crashes that involve commercial motor vehicles. The study shall also identify data requirements and collection procedures, reports, and other measures that will improve the Department of Transportation's and States' ability to—

- (1) evaluate future crashes involving commercial motor vehicles;
- (2) monitor crash trends and identify causes and contributing factors; and
- (3) develop effective safety improvement policies and programs.

(b) **DESIGN.**—The study shall be designed to yield information that will help the Department and the States identify activities and other measures likely to lead to significant reductions in the frequency, severity, and rate per mile traveled of crashes involving commercial motor vehicles, including vehicles described in section 31132(1)(B) of title 49, United States Code. As practicable, the study shall rank such activities and measures by the reductions each would likely achieve, if implemented.

(c) **CONSULTATION.**—In designing and conducting the study, the Secretary shall consult with persons with expertise on—

- (1) crash causation and prevention;
- (2) commercial motor vehicles, drivers, and carriers, including passenger carriers;
- (3) highways and noncommercial motor vehicles and drivers;
- (4) Federal and State highway and motor carrier safety programs;
- (5) research methods and statistical analysis; and
- (6) other relevant topics.

(d) **PUBLIC COMMENT.**—The Secretary shall make available for public comment information about the objectives, methodology, implementation, findings, and other aspects of the study.

(e) REPORTS.—

(1) **IN GENERAL.**—The Secretary shall promptly transmit to Congress the results of the study, together with any legislative recommendations.

(2) **REVIEW AND UPDATE.**—The Secretary shall review the study at least once every 5 years and update the study and report as necessary.

(f) **FUNDING.**—Of the amounts made available for each of fiscal years 2001, 2002, and 2003 under section 4003(i) of the Transportation Equity Act for the 21st Century (112 Stat. 395–398), as added by section 103(b)(1) of this Act, \$5,000,000 per fiscal year shall be available only to carry out this section.

SEC. 225. DATA COLLECTION AND ANALYSIS.

49 USC 31100
note.

(a) **IN GENERAL.**—In cooperation with the States, the Secretary shall carry out a program to improve the collection and analysis of data on crashes, including crash causation, involving commercial motor vehicles.

(b) **PROGRAM ADMINISTRATION.**—The Secretary shall administer the program through the National Highway Traffic Safety Administration in cooperation with the Federal Motor Carrier Safety Administration. The National Highway Traffic Safety Administration shall—

(1) enter into agreements with the States to collect data and report the data by electronic means to a central data repository; and

Contracts.

(2) train State employees and motor carrier safety enforcement officials to assure the quality and uniformity of the data.

(c) **USE OF DATA.**—The National Highway Traffic Safety Administration shall—

(1) integrate the data, including driver citation and conviction information; and

(2) make the data base available electronically to the Federal Motor Carrier Safety Administration, the States, motor carriers, and other interested parties for problem identification, program evaluation, planning, and other safety-related activities.

(d) **REPORT.**—Not later than 3 years after the date on which the improved data program begins, the Secretary shall transmit a report to Congress on the program, together with any recommendations the Secretary finds appropriate.

Deadline.

(e) **FUNDING.**—Of the amounts deducted under section 104(a)(1)(B) of title 23, United States Code, for each of fiscal years 2001, 2002, and 2003 \$5,000,000 per fiscal year shall be available only to carry out this section.

(f) **ADDITIONAL FUNDING FOR INFORMATION SYSTEMS.**—

(1) **IN GENERAL.**—Of the amounts made available for each of fiscal years 2001, 2002, and 2003 under section 4003(i) of the Transportation Equity Act for the 21st Century (112 Stat. 395–398), as added by section 103(b)(1) of this Act, \$5,000,000 per fiscal year shall be available only to carry out section 31106 of title 49, United States Code.

(2) **AMOUNTS AS ADDITIONAL.**—The amounts made available by paragraph (1) shall be in addition to amounts made available under section 31107 of title 49, United States Code.

SEC. 226. DRUG TEST RESULTS STUDY.

49 USC 31306
note.

(a) **IN GENERAL.**—The Secretary shall conduct a study of the feasibility and merits of—

(1) requiring medical review officers or employers to report all verified positive controlled substances test results on any driver subject to controlled substances testing under part 382

of title 49, Code of Federal Regulations, including the identity of each person tested and each controlled substance found, to the State that issued the driver's commercial driver's license; and

(2) requiring all prospective employers, before hiring any driver, to query the State that issued the driver's commercial driver's license on whether the State has on record any verified positive controlled substances test on such driver.

(b) **STUDY FACTORS.**—In carrying out the study under this section, the Secretary shall assess—

(1) methods for safeguarding the confidentiality of verified positive controlled substances test results;

(2) the costs, benefits, and safety impacts of requiring States to maintain records of verified positive controlled substances test results; and

(3) whether a process should be established to allow drivers—

(A) to correct errors in their records; and

(B) to expunge information from their records after a reasonable period of time.

Deadline.

(c) **REPORT.**—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the study carried out under this section, together with such recommendations as the Secretary determines appropriate.

SEC. 227. APPROVAL OF AGREEMENTS.

(a) **REVIEW.**—Section 13703(c) of title 49, United States Code, is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(2) by striking "The Board" and inserting the following:

"(1) **IN GENERAL.**—The Board";

(3) by adding at the end the following:

"(2) **PERIODIC REVIEW OF APPROVALS.**—Subject to this section, in the 5-year period beginning on the date of the enactment of this paragraph and in each 5-year period thereafter, the Board shall initiate a proceeding to review any agreement approved pursuant to this section. Any such agreement shall be continued unless the Board determines otherwise."; and

(4) by moving the remainder of the text of paragraph (1) (as designated by paragraph (2) of this subsection), including subparagraphs (A) through (D) (as designated by paragraph (1) of this subsection), 2 ems to the right.

(b) **LIMITATION.**—Section 13703(d) of such title is amended to read as follows:

"(d) **LIMITATION.**—The Board shall not take any action that would permit the establishment of nationwide collective ratemaking authority."

(c) **EXISTING AGREEMENTS.**—Section 13703(e) of such title is amended—

(1) by striking "Agreements" and inserting the following:

"(1) **AGREEMENTS EXISTING AS OF DECEMBER 31, 1995.**—Agreements";

(2) by adding at the end the following:

"(2) **CASES PENDING AS OF DATE OF THE ENACTMENT.**—Nothing in section 227 (other than subsection (b)) of the Motor

Carrier Safety Improvement Act of 1999, including the amendments made by such section, shall be construed to affect any case brought under this section that is pending before the Board as of the date of the enactment of this paragraph.”; and

(3) by aligning the left margin of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

SEC. 228. DOT AUTHORITY.

5 USC app.

(a) **IN GENERAL.**—The statutory authority of the Inspector General of the Department of Transportation includes authority to conduct, pursuant to Federal criminal statutes, investigations of allegations that a person or entity has engaged in fraudulent or other criminal activity relating to the programs and operations of the Department or its operating administrations.

(b) **REGULATED ENTITIES.**—The authority to conduct investigations referred to in subsection (a) extends to any person or entity subject to the laws and regulations of the Department or its operating administrations, whether or not they are recipients of funds from the Department or its operating administrations.

Approved December 9, 1999.

LEGISLATIVE HISTORY—H.R. 3419:

CONGRESSIONAL RECORD, Vol. 145 (1999):

Nov. 18, considered and passed House.

Nov. 19, considered and passed Senate.



Assault with a dangerous weapon. — The supreme court declined to hold that intoxication ought to be considered with respect to the general criminal intent necessary to the commission of the former crime of assault with a dangerous weapon. *Menard v. State*, 578 P.2d 966 (Alaska 1978) (decided under former AS 11.70.030).

Failure to remain at scene of accident. — Trial court did not err in instructing the jurors that they could not consider defendant's intoxication in deciding whether he acted knowingly with regard to the of-

fenses of failing to remain at the scene of an accident and failing to render assistance to an injured person. *Williams v. State*, 737 P.2d 360 (Alaska Ct. App. 1987).

Applied in *Fox v. State*, 685 P.2d 1267 (Alaska Ct. App. 1984); *Abruska v. State*, 705 P.2d 1261 (Alaska Ct. App. 1985).

Cited in *Baden v. State*, 667 P.2d 1275 (Alaska Ct. App. 1983); *Brown v. State*, 739 P.2d 182 (Alaska Ct. App. 1987); *Stevens v. State*, 748 P.2d 771 (Alaska Ct. App. 1988).

Collateral references. — Modern status of rules as to voluntary intoxication as defense to criminal charge, 8 ALR3d 1236.

Drug addiction or related mental state as defense to criminal charge. 73 ALR3d 16.

When intoxication deemed voluntary so as to constitute a defense to criminal charge, 73 ALR3d 195.

Adequacy of defense counsel's representation of criminal client — pretrial conduct or conduct at unspecified time regarding issues of diminished capacity, intoxication, and unconsciousness. 79 ALR5th 419.

Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630. AS 11.81.600 — 11.81.630 apply only to this title. (§ 10 ch 166 SLA 1978)

NOTES TO DECISIONS

Stated in *Neitzel v. State*, 655 P.2d 325 (Alaska Ct. App. 1982).

Cited in *Brown v. State*, 739 P.2d 182 (Alaska Ct.

App. 1987); *Cole v. State*, 828 P.2d 175 (Alaska Ct. App. 1992); *Alvarez v. Ketchikan Gateway Borough*,

91 P.3d 289 (Alaska Ct. App. 2004).

Article 6. Definitions.

Section

900. Definitions

Sec. 11.81.900. Definitions. (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "intentionally" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "knowingly" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "recklessly" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "criminal negligence" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to

AMENDMENT #1

OFFERED IN THE HOUSE

BY _____

STATE AFFAIRS COMMITTEE

TO: HB 126

- 1 Page 8, line 26, following "conviction":
- 2 Insert "of a person who holds or is required to have a commercial driver's license"
- 3
- 4 Page 10, line 1, following "(a)(1) - (5)":
- 5 Insert ", (9), or (10)"
- 6
- 7 Page 14, line 27:
- 8 Delete "in writing"
- 9 Insert "[IN WRITING]"

Randall Ruaro

From: Kerry Hennings [kerry_hennings@admin.state.ak.us]
Sent: Wednesday, February 21, 2007 9:16 AM
To: Randall Ruaro
Cc: Duane Bannock; Deborah Behr; Margaret Paton-Walsh
Subject: Re: CDL Bill

Randy,

Spoke with Tony over at D''SS. He would like to see a slight language change in Section 1.

Am#2

AS 28.05.065. Access to Information. (a) For purposes of carrying out the provisions of AS 28.05, AS 28.15, AS 28.33, and AS 28.35, an employee of the department assigned to perform functions under those chapters may access information about an adult or **a minor** [juvenile] charged with or [.] convicted of [, or adjudicated a delinquent for] an offense.

Adjudication of a delinquent is not needed in this section as all offenses minors may be convicted of under Title 28 are reported through DPS. Adjudications are reported through a different system with DHHS. He would just like the verbiage to be correct.

Can this be added to the amendment you'll be putting forth next week?

Kerry

Randall Ruaro wrote:

Duane / Kerry / Mags:

Thanks for all your help getting the bill through State Affairs. I have meetings lined up for 2/27 with members of the Judiciary committee to line up support for the bill there. The schedule is: Ramras @ 9:30; Holmes @ 11:30; Samuels @ 3:30. Please let me know if any of you can attend telephonically or in person if you happen to be in Juneau.

We will be submitting a scheduling request to House Judiciary today, along with a copy of your amendment language for that committee to incorporate into a CS.

One issue has popped up. DHSS – Juvenile Justice (Tony Newman) have concerns about the language giving DMV access to juvenile records. Please call him and discuss these provisions of the bill with him right away so this does not become an issue that hangs us up in committee.

Thanks

Randy