

HB

139



HOUSE JUDICIARY COMMITTEE

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Rep. Max Gruenberg
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Rep. Lindsey Holmes
Room 405
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MEMORANDUM

Date: March 27, 2009

To: Representative John Coghill
Chairman House Rules Committee

From: Representative Jay Ramras
Chairman House Judiciary Committee

Re: Referral File for HB139 - Allow Screen Devices in Utility
Vehicles

Please accept this memo as the referral file for HB139. Attached are the following documents:

- Sponsor Statement
- HB139 (26-LS0573A)
- Zero Fiscal Note DPS
- Enacted Copy of HB88
- Relevant Statutes
- Legal Services Memo dated 3/4/09
- Letters of Support
- HJUD Committee Report
- HSTA Committee Report
- HJUD Testifier List

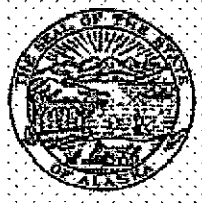
Alaska State Legislature

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Representative Carl Gatto

Chair, House Military and Veteran Affairs Committee

District 13 - Palmer

SPONSOR STATEMENT

HB 139: ALLOW SCREEN DEVICES IN UTILITY VEHICLES

"An Act providing for an exception to allow drivers of public utility motor vehicles to operate those vehicles with certain screen devices operating and visible to the drivers."

HB 139 is a fix-it bill to correct an oversight in HB 88 that passed in the 25th Legislature. HB 88 prohibits the driver of an automobile from having a screen device, such as a television, video monitor, portable computer, or similar device, operating within their view while the automobile is in motion. Exceptions were made in HB 88 for cell phone usage for verbal communication, navigation or global positioning, maps, etc. HB 88 also recognized that the Department of Transportation and Public Facilities may need to access a screen device in their automobiles while performing highway construction, maintenance or repair, and included an exception for those activities; however, HB 88 failed to include an additional exception for public utilities.

This legislation would provide public utilities with similar access for maintenance, repair, or data acquisition in order to perform their duties. As an example, meter readers for a gas company no longer physically exit their car to collect usage information; instead the information is collected by interrogating the meter as the meter reader drives past the location. The drivers need to verify as they drive by a home, for example, that the data is being collected. More importantly, if there is a gas leak, the driver will see on his screen device that there is a problem with the line as he drives by the point of leak. Finally, the drivers also receive messages from police and fire departments in the case of an emergency where a gas line would need to be shut off. Other public utilities, as defined in AS 42.05.990, have similar reasons for needing access to a screen device in performance of their duties.

HB 139 is intended to correct this oversight and provide public utilities an exception in order to allow them to fully perform their job functions.

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB139
() Publish Date: _____

Identifier (file name): HB139-DPS-DET-03-02-09 Public Safety
Title "An Act providing for an exception to allow drivers of public... utility vehicles to operate the vehicle with screen devices". RDU Alaska State Troopers
Component AST Detachments
Sponsor Representative Gatto
Requester House State Affairs Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
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	0.0

CAPITAL EXPENDITURES								
-----------------------------	--	--	--	--	--	--	--	--

CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

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

This bill amends AS 28.35.161(c) by adding an exemption for those operating public utility vehicles to operate those vehicles with screen devices.

This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial Phone 907-247-4480
Division Alaska State Troopers Date/Time 3/5/09 12:44 PM
Approved by: Joseph Masters, Commissioner Date 3/5/2009
Department of Public Safety



LAWS OF ALASKA

2008

Source

SCS CSHB 88(JUD)

Chapter No.

AN ACT

Relating to televisions, monitors, portable computers, and similar devices in motor vehicles; relating to the definition of physical injury for the Alaska Uniform Vehicle Code; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Enrolled HB 88

AN ACT

1 Relating to televisions, monitors, portable computers, and similar devices in motor vehicles;
2 relating to the definition of physical injury for the Alaska Uniform Vehicle Code; and
3 providing for an effective date.

4
5 * Section 1. AS 28.35 is amended by adding a new section to read:

6 **Sec. 28.35.161. Driving a motor vehicle with a screen device operating;**
7 **unlawful installation of television, monitor, or similar device.** (a) A person
8 commits the crime of driving with a screen device operating if

9 (1) the person is driving a motor vehicle;

10 (2) the vehicle has a television, video monitor, portable computer, or
11 any other similar means capable of providing a visual display that is in full view of a
12 driver in a normal driving position while the vehicle is in motion; and

13 (3) the monitor or visual display is operating while the person is
14 driving.

1 (b) A person may not install or alter equipment described in (a)(2) of this
2 section that allows the images to be viewed by the driver in a normal driving position
3 while the vehicle is in motion.

4 (c) Subsections (a) and (b) of this section do not apply to

5 (1) portable cellular telephones or personal data assistants being used
6 for verbal communication or displaying caller identification information;

7 (2) equipment that is displaying only

8 (A) audio equipment information, functions, and controls;

9 (B) vehicle information or controls related to speed, fuel level,
10 battery charge, and other vehicle safety or equipment information;

11 (C) navigation or global positioning;

12 (D) maps;

13 (E) visual information to

14 (i) enhance or supplement the driver's view forward,
15 behind, or to the sides of the motor vehicle for the purpose of
16 maneuvering the vehicle; or

17 (ii) allow the driver to monitor vehicle occupants seated
18 behind the driver;

19 (F) vehicle dispatching and response information for motor
20 vehicles providing emergency road service or roadside assistance;

21 (G) vehicle dispatching information for passenger transport or
22 freight or package delivery; or

23 (H) information for use in performing highway construction,
24 maintenance, or repair or data acquisition by the Department of Transportation
25 and Public Facilities or a municipality.

26 (d) Subsections (a) and (b) of this section do not apply to devices and
27 equipment installed in an emergency vehicle. In this subsection, "emergency vehicle"
28 means a police, fire, or emergency medical service vehicle.

29 (e) It is an affirmative defense to a prosecution under (b) of this section that
30 the equipment installed or altered includes a device that, when the motor vehicle is
31 being driven, disables the equipment for all uses except those described in (c) of this

1 section.

2 (f) A person who violates (a) of this section is guilty of

3 (1) a class A misdemeanor, unless any of the circumstances described
4 in (2) - (4) of this subsection apply;

5 (2) a class C felony if the person's driving causes physical injury to
6 another person;

7 (3) a class B felony if the person's driving causes serious physical
8 injury to another person;

9 (4) a class A felony if the person's driving causes the death of another
10 person.

11 (g) A person who violates (b) of this section is guilty of a class A
12 misdemeanor.

13 * Sec. 2. AS 28.90.990(a) is amended by adding a new paragraph to read:

14 (30) "physical injury" has the meaning given in AS 11.81.900.

15 * Sec. 3. This Act takes effect September 1, 2008.

CWest's Alaska Statutes Annotated Currentness

Title 42. Public Utilities and Carriers

▣ Chapter 05. Alaska Public Utilities Regulatory Act

▣ Article 10. General Provisions

→ § 42.05.990. Definitions

In this chapter

(1) "affiliated interest" includes:

(A) a person owning or holding directly or indirectly five percent or more of the voting securities of a public utility engaged in intrastate business in this state;

(B) a person, other than those specified in (A) of this paragraph, in a chain of successive ownership of five percent or more of voting securities, the chain beginning with the holder of the voting securities of such public utility;

(C) a corporation five percent or more of whose voting securities are owned by a person owning five percent or more of the voting securities of the public utility or by a person in such a chain of successive ownership of five percent or more of the voting securities;

(D) a corporation five percent or more of whose voting securities are owned or held by a public utility;

(E) a person with whom the public utility has a management or service contract;

(F) a person who is an officer or director of such a public utility or of a corporation in a chain of successive ownership of five percent or more of voting securities;

(G) a corporation which has one or more officers or directors in common with a public utility;

(H) a person or corporation who or which the commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of a utility in conjunction with one or more other corporations or persons with whom they are related by ownership or blood, or by action in concert, that together they are affiliated with the utility within the meaning of this section even though none of them alone is so affiliated; or

(I) a person or corporation who or which the commission determines as a matter of fact after investigation and hearing actually is exercising substantial influence over the policies and actions of a utility even though such influence is not based upon stockholdings, stockholders, officers or directors to the extent specified in this section;

(2) "commission" means the Regulatory Commission of Alaska;

(3) "public" or "general public" means

(A) a group of 10 or more customers that purchase the service or commodity furnished by a public utility;

(B) one or more customers that purchase electrical service for use within an area that is certificated to and presently or formerly served by an electric utility if the total annual compensation that the electrical utility receives for sales of electricity exceeds \$50,000; and

(C) a utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products that are re-sold to a person or group included in (A) or (B) of this paragraph or that are used to produce the service or commodity sold to the public by the utility;

(4) "public utility" or "utility" includes every corporation whether public, cooperative, or otherwise, company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages, or controls any plant, pipeline, or system for

(A) furnishing, by generation, transmission, or distribution, electrical service to the public for compensation;

(B) furnishing telecommunications service to the public for compensation;

(C) furnishing water, steam, or sewer service to the public for compensation;

(D) furnishing by transmission or distribution of natural or manufactured gas to the public for compensation;

(E) furnishing for distribution or by distribution petroleum or petroleum products to the public for compensation when the consumer has no alternative in the choice of supplier of a comparable product and service at an equal or lesser price;

(F) furnishing collection and disposal service of garbage, refuse, trash, or other waste material to the public for compensation;

(5) "rate" includes each rate, toll, fare, rental, charge, or other form of compensation demanded, observed, charged, or collected by a public utility for its services;

(6) "service" means, unless the context indicates otherwise, every commodity, product, use, facility, convenience, or other form of service that is offered for and provided by a public utility for the convenience and necessity of the public;

(7) "tariff" means a rate, charge, toll, rule, or regulation of a utility relating to services furnished by the utility to the general public for compensation and every map, page, adoption notice, instrument, or other document filed with the commission setting out the terms and conditions under which utility services are offered to the public and instruments of concurrence and all other documents and data setting out the terms of a utility's business relations with another utility insofar as they affect the general public either directly or indirectly;

(8) "telecommunications" means the transmission and reception of messages, impressions, pictures, and signals by means of electricity, electromagnetic waves, and any other kind of energy, force variations, or impulses whether conveyed by cable, wire, radiated through space, or transmitted through other media within a specified area or between designated points.

CREDIT(S)

SLA 1970, ch. 113, § 6; SLA 1971, ch. 36, § 2; SLA 1973, ch. 76, § 2; SLA 1990, ch. 140, § 4; SLA 1990, ch. 168, § 19; SLA 1999, ch. 25, § 12.

NOTES OF DECISIONS

Franchises 2
Service 1

1. Service

Electric utility was not exempt from requirement that it had to obtain an additional certificate of public convenience and necessity from the Regulatory Commission prior to selling power outside its assigned geographical area, even though it argued it was selling a "commodity" rather than providing a "service," as the statutory definition of service included commodities. AS 42.05.221(a), 42.05.990(6). Chugach Electric Ass'n, Inc. v. Regulatory Com'n of Alaska (2002) Alaska, 49 P.3d 246. Electricity ↪8.1(2.1)

In determining whether to issue certificate of public convenience and necessity for coal-fired electric generation plant, Alaska Public Utilities Commission (APUC) was not required to consider costs associated with environmental externalities or public subsidies not paid by consumers as part of rate charged for service; language of statute governing issuance of certificate was limited specifically to "services," rather than construction of particular facility, and statutory requirement that APUC find applicant "fit, willing and able to provide the utility services applied for" only required APUC to focus on applicant. AS 42.05.221(a), 42.05.241. Alaska Federation for Community Self-Reliance v. Alaska Public Utilities Com'n, 1994, 879 P.2d 1015. Electricity ↪8.1(1)

Borough engaged in "collection" and "disposal" within meaning of AS 29.48.033(b) requiring certificate of public convenience and necessity when it opened large public dumping floor and transported garbage from there to final disposal site. Drake v. Fairbanks North Star Borough, 1986, 715 P.2d 1167. Environmental Law ↪369

Contracts which were awarded by city and which covered all hauling of refuse to sanitary landfills and maintenance and operation of transfer sites pertained to "collection and disposal," within statute precluding political subdivision from providing for waste collection and disposal service in any area, to extent it lies within area granted to waste carrier by certificate issued by Public Utilities Commission, until subdivision has purchased certificate, equipment and facilities of carrier or that portion which would be affected at fair market value; thus city was liable for fair market value of certificate of public convenience and necessity issued by Commission or that portion of certificate that would be affected. AS 29.48.033(b), 42.05.221(f). McClellan v. Kenai Peninsula Borough, 1977, 565 P.2d 175. Environmental Law ↪368

2. Franchises

Franchise agreements which originated in the form of municipal ordinances were in fact contracts, in that a "franchise" is a contract binding upon both parties regardless of method by which it comes into being, and thus, franchises were not "enactments" within meaning of statute superseding certain municipal "enactments." AS 29.13.100. B-C Cable Co., Inc. v. City and Borough of Juneau, 1980, 613 P.2d 616. Franchises ↪1

AS § 42.05.990, AK ST § 42.05.990

Current through the 2008 Second Regular and Fourth Special Session of the 25th Legislature

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END OF DOCUMENT

LEGAL SERVICES

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MEMORANDUM

March 4, 2009

SUBJECT: HB 139 - Public Utility Exception
(Work Order No. 26-LS0573A)

TO: Representative Max Gruenberg
Attn: Allison Laffen

FROM: Gerald P. Luckhaupt *GPL*
Legislative Counsel

You have asked if the exception provided by this bill for public "utility construction, maintenance, [or] repair" would include dispatching and response information for those purposes. In my opinion it would include dispatching and response information as well as other activities related to "utility construction, maintenance, [or] repair." Of course if the utility companies are more concerned with providing an exception for public utility motor vehicle dispatching and response, then I would recommend removing the reference to "construction, maintenance, and repair" and just refer to dispatching and response for public utility purposes. Something like the following would suffice:

vehicle dispatching and response information for public utility motor vehicles or information for use in performing data acquisition by a public utility.

GPL:plm
09-138.plm



3000 Spenard Road
PO Box 190288
Anchorage, AK 99519-0288
www.enstarnaturalgas.com

February 27, 2009

Honorable Max Gruenberg
Alaska House of Representatives
State Capitol
Juneau, Alaska 99801-1182

Dear Representative Gruenberg,

I would like to thank you for sponsoring House Bill 139 "An Act providing for an exception to allow drivers of public utility motor vehicles to operate those vehicles with certain screen devices operating and visible to the drivers". ENSTAR Natural Gas Company is a leader in using new technology to provide better customer service in an attempt to hold down operating costs, thereby saving the consumer money. We currently provide automated meter reading and will soon be introducing a "Field Order System" (FOS) to provide real time information on work orders between field personnel, dispatch and customer service, thereby providing an improved customer experience.

ENSTAR would like to include a reference to "vehicle dispatching and response information" under the new subsection (I). There currently are references in existing statutes to vehicle dispatching information for passenger transport, freight or package delivery. ENSTAR currently dispatches our service technician and distribution crews as a normal course of business, which includes gas leaks, fires and other emergency situations. ENSTAR is proud that our dispatch and response rate is ranked one of the highest in the nation.

However, without a reference in the bill to utility dispatching, it could be interpreted we are not in compliance with state law. Anything you could do to clarify the language would be greatly appreciated.

We appreciate your time and efforts in this matter.

Sincerely,

Curtis W. Thayer
Director, Corporate and External Affairs

Anchorage: 907-277-5551 • Kenai Peninsula Office: 907-262-9334 • Mat-Su Office: 907-376-7979

All Our Energy Goes Into Our Customers

March 6, 2009

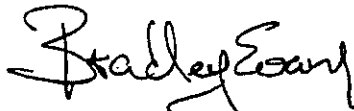
Representative Max Gruenberg
State Capitol, Room 110
Juneau, AK 99801-1182

Dear Rep. Gruenberg:

I am writing in support of your efforts to secure an appropriate utility amendment to the law addressing screen devices in vehicles. We believe House Bill 139 offers a reasonable exemption to allow Chugach to continue to safely conduct routine utility operations.

Thank you for seeking this amendment.

Sincerely,



Bradley Evans, Chief Executive Officer
Chugach Electric Association

