

HB

251

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 251
 () Publish Date: _____

Identifier (file name): HB251-DOT-CO-3-08-10 Dept. Affected: DOT&PF
 Title: Priority of Towing Liens RDU: Administration and Support
 Sponsor: Rep. Ramras Component: Commissioner's Office
 Requester: H STA Component Number: 530

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
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								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact to the department.

Prepared by: Mary Siroky, Legislative Liaison
 Division: Department of Transportation and Public Facilities
 Approved by: Frank Richards, Deputy Commissioner
Department of Transportation and Public Facilities

Phone 465-4772
 Date/Time 3/8/10 5:00pm
 Date 3/8/2010

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House of Representatives



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Representative Jay Ramras
District 10

Sponsor Statement
HB 251 – PRIORITY OF TOWING LIENS

Towing companies provide necessary service to Alaskans through the removal of abandoned, junked, and wrecked vehicles from public thoroughfares and private property. Alaskan towing companies follow prescribed laws in providing these towing services and in most cases are acting under the authorization or direction of public safety officers. Alaskan towing companies should be paid for providing these services to the public, but in certain situations they are not. Providing a statutory mechanism so that these small towing businesses are first in line for payment for delivered services will reduce business risk to these companies. House Bill 251 changes the priority in which payments may be made to provide for a fairer business environment to towing companies.

House Bill 251 prioritizes a possessory lien for towing services lawfully provided in conformity with AS 28.10.502. This prioritization is necessary and gives first position to towing companies to recoup costs for impound and contractual vehicular towing and storage. Without House Bill 251's clarifying language, Alaska's towing service companies could be harmed by allowing other lien holders to take possession of a vehicle in impound without paying for towing and storage services already provided. A nonpayment situation would at a minimum shift costs to other Alaskans and unfairly increase their towing charges, or in extreme cases induce business hardships and cause business failure for towing companies.

House Bill 251 corrects a current situation whereby certain lien holders may receive impound services from towing companies without paying for all or part of the charges. This is unfair to Alaska's towing companies. Reducing unfair business risk to Alaska's small companies is in the best interest of the state.

Representative_Jay_Ramras@legis.state.ak.us

Alaska Towing Association

The Voice of Alaskan Towing Professionals

RE: Alaska Towing Association supports HB 251

Members of the towing industry in Alaska have begun to catch up with our counterparts in other states over the last decade, and many Alaskan towers are now on the leading edges of towing technology and practice. Towing in Alaska presents unique challenges, but our members meet those challenges, and towing entities both large and small provide daily professional support to our emergency services and law enforcement systems.

Unfortunately, the modernization of the towing industry across the state has increased costs for towing businesses almost exponentially in recent years as Alaskan towers have upgraded equipment to meet the demands of newer vehicles, improved response times, procedures and training to enhance public safety, and satisfied an ever-growing list of license and permit requirements from Federal, State and local municipalities.

These costs are of course passed on to consumers. Vehicle mishaps and subsequent towing frequently involves great financial liability for vehicle owners, their lenders, and/or their insurance companies. Alaska Statute AS 28.10.502 offers some measure of protection to towers, providing for a Towing and Storage Lien to be automatically placed on any vehicle lawfully towed and stored to ensure payment for the towers' services. This lien is most commonly applied to abandoned or wrecked vehicles removed from public or private property, or towed from public roadways at the request of law enforcement officials, and stored in secured lots at the expense of the towing company.

However, a court decision in the 3rd Judicial Court has determined that perfected liens supercede a tower's possessory lien based on AS 28.10.391, and this decision has effectively nullified the Towing & Storage Lien. Practically speaking, this means a tower may recover, tow, and store a vehicle at real cost to himself and his company, and then be denied payment, lose possession of the collateral, and have no real recourse for financial satisfaction for his loss. HB 251 will alleviate this discrepancy by prioritizing the Towing and Storage lien.

Most other states, if not all, have long resolved the issue between possessory liens and perfected liens on towed or stored vehicles in favor of prioritizing the tower's lien. The obvious fact of services rendered, and payment due for those services creates a reasonable and lawful expectation of payment. In no way does this financial obligation for services supercede the interest in collateral of a perfected lien, rather it merely prioritizes payment for services rendered.

Alaska's statutory disparity is unfortunate, and presumably unintended, but is a very real and expensive issue for Alaska Towing Association members. Towers respond to thousands of vehicle emergencies every year, and remove wrecked vehicles from Alaska's roadways every day. This kind of towing is an integral part of most small towing business models within Alaska. Each emergency tow can easily cost a tower several hundred dollars in labor, fuel, equipment, insurance and operating costs, depending on services rendered and length of time it must be secured and stored.

If the costs of these services cannot be reasonably recouped on even one vehicle simply because a perfected lien exists prior to the tow company's possessory lien, a financial hardship condition develops.

If towing companies continue to be effectively forced to provide their services for free, the current status quo for providing these services to law enforcement agencies at no cost to the agency may change, and State and local law enforcement jurisdictions may be placed into the position of hiring their own towing contractors or otherwise purchasing towing services.

Alaska has much work to do to improve and enhance the towing industry in our state. It has been largely unregulated and unmonitored for many years. Careful evaluation of the issues within the industry is necessary, and thoughtful legislation is required for the protection of both the public and the small businessmen and women within the industry.

The members of the Alaska Towing Association consider HB 251 one step in this direction. The small change to AS 28.10.502 presented in the bill will help protect industry providers from an effective theft of services. In turn, this will help ensure that the many small towing operators across the state remain in business, and ensure a competitive industry that continues to improve itself to meet the demands of the motoring public and Alaska's law enforcement agencies.

The Alaska Towing Association supports HB 251. If it is passed into law, towers can remain willing and available to respond to that next call from their local law enforcement dispatcher in the dead of night knowing they have the protection of the law to ensure they will be compensated for the service they provide.

Shawn Ross
President, Alaska Towing Association

Representative Jay Ramras
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Chair, Economic Development,
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House District 10

Memo

To: Rep. Bob Lynn, Chairman House State Affairs
From: Rep. Jay Ramras
Date: 18 February 2010
Re: Hearing request for HB 251 in House State Affairs.

Please accept this memo as a request for HB 251 to be heard before House State Affairs Committee. Please find the attached documents for this purpose:

- Sponsor Statement
- HB 251 - a26-LS0786\R
- Support

Thank you for your time and consideration, should you have any questions, please do not hesitate to contact Don Habeger at 465-3004.

Representative_Jay_Ramras@legis.state.ak.us