

SB

163

<TARGET><BILL>SB 163</BILL><SUBJECT>SB
163</SUBJECT><COMM>HRLS30</COMM></TARGET>

30-GS2597J
Martin
4/11/18

HOUSE CS FOR CS FOR SENATE BILL NO. 163(RLS)
IN THE LEGISLATURE OF THE STATE OF ALASKA
THIRTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to commercial motor vehicles; and relating to overtaking and passing**
2 **certain stationary vehicles."**

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

4 *** Section 1.** AS 19.10.300(f)(1) is amended to read:

5 (1) "commercial motor vehicle" means a motor vehicle or a
6 combination of a motor vehicle and one or more other vehicles

7 (A) used to transport passengers or property for commercial
8 purposes;

9 (B) used on [UPON] a land highway or vehicular way or area;

10 and

11 (C) that

12 (i) has a gross vehicle weight rating or gross
13 combination weight rating greater than 26,000 pounds; or

14 (ii) is designed to transport more than 15 passengers,

including the driver;

(D) except that the following vehicles meeting the criteria in (A) - (C) of this paragraph are not commercial motor vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

(ii) covered farm vehicles operating anywhere in the state [THAT ARE CONTROLLED AND OPERATED BY A FARMER; USED TO TRANSPORT AGRICULTURAL PRODUCTS, FARM MACHINERY, OR FARM SUPPLIES TO OR FROM THAT FARMER'S FARM; NOT USED IN THE OPERATIONS OF A COMMON OR CONTRACT MOTOR CARRIER; AND USED WITHIN 150 MILES OF THE FARMER'S FARM]; and

(iii) vehicles used exclusively for purposes other than commercial purposes;

* Sec. 2. AS 19.10.399(1) is amended to read:

(1) "commercial motor vehicle" means a self-propelled or towed motor vehicle

(A) used to transport passengers or property for commercial purposes;

(B) used on [UPON] a highway or vehicular way or area; and

(C) that

(i) has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight of 10,001 pounds or more [GREATER THAN 10,000 POUNDS] for vehicles used in interstate commerce and 14,000 pounds or more for vehicles used in intrastate commerce; [OR]

(ii) is designed to transport more than 15 passengers, including the driver; or

(iii) is used to transport material found by the United States Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and is transported in any quantity requiring

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placarding:

(D) **for the purposes of intrastate commerce;** [EXCEPT THAT] the following vehicles meeting the criteria in **(A) and (B) and either (C)(i) or (ii)** [(A) - (C)] of this paragraph are not commercial motor vehicles:

(i) emergency or fire equipment that is necessary to the preservation of life or property;

(ii) **covered** farm vehicles **operating anywhere in the state** [THAT ARE CONTROLLED AND OPERATED BY A FARMER; USED TO TRANSPORT AGRICULTURAL PRODUCTS, FARM MACHINERY, OR FARM SUPPLIES TO OR FROM THAT FARMER'S FARM; NOT USED IN THE OPERATIONS OF A COMMON OR CONTRACT MOTOR CARRIER; AND USED WITHIN 150 MILES OF THE FARMER'S FARM];

(iii) school buses **used for school bus operations;**

(iv) vehicles owned and operated by the federal government unless the vehicle is used to transport property of the general public for compensation in competition with other persons who own or operate a commercial motor vehicle subject to AS 19.10.310 - 19.10.399, and except to the extent that regulation of vehicles operated by the federal government is permitted by federal law; and

(v) vehicles used exclusively for purposes other than commercial purposes;

* **Sec 3.** AS 19.10.399 is amended by adding new paragraphs to read:

(14) "covered farm vehicle" means a straight or articulated vehicle

(A) registered in the state with a license plate or other designation issued by the state that allows law enforcement officials to identify it as a farm vehicle;

(B) operated by the owner or operator of a farm or ranch, or an employee or family member of an owner or operator of a farm or ranch;

(C) used to transport agricultural commodities, livestock, machinery, or supplies to or from a farm or ranch; and

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(D) not used in for-hire motor carrier operations;

(15) "school bus" means a passenger motor vehicle that is designed or used to carry more than 10 passengers in addition to the driver and that is likely to be used to transport pre-elementary, elementary, or secondary school students to and from school;

(16) "school bus operations" means the use of a school bus to transport students and school personnel to and from school.

* **Sec. 4.** AS 28.35.185(a) is amended to read:

(a) The driver of a vehicle that approaches a stationary emergency vehicle, fire vehicle, law enforcement vehicle, tow truck in the act of picking up a vehicle, vehicle in the act of performing maintenance or road service work, or animal control vehicle being used to perform official duties, when the stationary vehicle is displaying flashing emergency lights on a highway or roadway

(1) with two or more lanes traveling in the same direction, unless otherwise directed by law enforcement or emergency personnel, shall

(A) if possible in the existing safety and traffic conditions, vacate the lane closest to the emergency vehicle, fire vehicle, law enforcement vehicle, tow truck in the act of picking up a vehicle, vehicle in the act of performing maintenance or road service work, or animal control vehicle being used to perform official duties; or

(B) if a lane change under (A) of this paragraph would be impossible, prohibited by law, or unsafe, slow to a reasonable and prudent speed considering the traffic, roadway, and weather conditions;

(2) with fewer than two lanes traveling in the same direction, unless otherwise directed by law enforcement or emergency personnel, shall slow to a reasonable and prudent speed considering the traffic, roadway, and weather conditions.

Alaska State Legislature



House Rules Committee

State Capitol Room 216, Juneau, AK 99801-1182 (907) 465-4998
1500 W. Benson Blvd. Anchorage, AK 99501 Phone: (907) 269-0216

Explanation of Changes for the HCS (RLS) to Senate Bill 163 – Definition of Commercial Motor Vehicles Version J

The Rules Committee substitute for SB 163 would add road maintenance vehicles to the list of vehicles that already require drivers to vacate the nearest lane or slow down when approaching certain stationary vehicles conducting official business.

LEGAL SERVICES

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MEMORANDUM

April 11, 2018

SUBJECT: Single Subject (HCS CSSB 163(RLS);
Work Order No. 30-GS2597J)

TO: Representative Gabrielle LeDoux
Chair of the House Rules Committee
Attn: Courtney Enright

FROM: Hilary V. Martin *HVM*
Legislative Counsel

You have asked whether the above-mentioned bill, which combines CSHB 204(JUD) with CSSB 163(STA) satisfies the single subject requirement.

The Alaska Supreme Court has generally reviewed challenges under art. II, sec. 13 of the Constitution of the State of Alaska with deference: "All that is necessary is that [the] act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject."¹ Using this broad construction of the rule, the court has approved such single subjects as "civil actions,"² "public safety,"³ "water resources,"⁴ "state

¹ *Croft v. Parnell*, 256 P.3d 369 372 - 373 (Alaska 2010).

² *Evans ex rel. Kutch v. State*, 56 P.3d at 1049, 1070 (Alaska 2002) (holding that changes to damages recoverable for torts, changes to tort statutes of limitations, change to allocation of fault between parties in tort suits, change to offer of judgment rules, and grant of partial immunity to hospitals all "within the single subject of 'civil actions'").

³ *Short v. State*, 600 P.2d 20, 22 - 24 & n. 2 (Alaska 1979) (holding that purposes of new correctional facilities "sufficiently related to the purposes" of new buildings for "state troopers, fish and wildlife protection, a motor vehicles division, [and] a fire prevention division").

⁴ *Gellert v. State*, 522 P.2d 1120, 1123 (Alaska 1974) (holding that flood control projects and small boat harbors "all part of a cooperative water resources development program").

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taxation,"⁵ "land,"⁶ and "transportation."⁷ The Alaska Court of Appeals has approved the single subjects "liquor regulation,"⁸ and "criminal law."⁹ However, there has been strong dissent against allowing broad subject matter in a single bill.¹⁰ In 2010, for the first time, the Alaska Supreme Court invalidated a piece of proposed legislation for failure to satisfy the confinement clause.¹¹ In *Croft v. Parnell*, the Court held that a proposed ballot initiative, which included provisions relating to public financing of election campaigns, oil taxes, and the permanent fund, was in violation of the single subject rule.¹²

In my opinion, inserting CSHB 204(JUD) into CSSB 163(STA) would not violate the single subject rule. CSSB 163(STA) relates to commercial motor vehicles and CSHB 204(JUD) relates to overtaking and passing certain stationary vehicles. Both of these bills are within the subject of "motor vehicles."

If I may be of further assistance, please advise.

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⁵ *North Slope Borough v. SOHIO Petroleum Corp.*, 585 P.2d 534, 545 - 46 (Alaska 1978) (finding that various provisions on municipal and state taxes all "relate directly to state taxation").

⁶ *State v. First Nat'l Bank of Anchorage*, 660 P.2d 406, 414 - 15 (Alaska 1982) (finding that provisions regulating sale of private land, and provisions on state's power to lease state-owned land and zone private lands all "in some respect concern [] land").

⁷ *Yute Air Alaska Inc. v. McAlpine*, 698 P.2d 1173, 1175, 1181 (Alaska 1985) (holding that repeal of regulations of "motor and air carriers in Alaska," prohibition on further similar regulation, and requirement that the governor seek repeal of federal statute that, among other things, regulates shipping by sea, all embraced by "[t]he subject 'transportation'").

⁸ *Van Brunt v. State*, 646 P.2d 872 (Alaska App 1982).

⁹ *Galbraith v. State*, 693 P.2d 880 (Alaska App 1985).

¹⁰ *Yute Air*, 698 P.2d at 1182 - 89. In his dissent, Justice Moore states: "This court has mistakenly continued to give the rule such an extremely liberal interpretation that the rule has become a farce."

¹¹ *Croft*, 236 P.3d at 374.

¹² *Id.* at 373.