

ALASKA LEGISLATURE

2555

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

Printed Name	Signature	Address	Date
BRANDI HARBAUGH	<i>B Harbaugh</i>	70 Box 2867 Soldotna	12/26/02
Amy Falk	<i>A Falk</i>	PO Box 7667 N. Kistka	12/26/02
Sney L. Murreyman	<i>Sney Murreyman</i>	446 W. Riverview Dr Soldotna AK	12/26/02
Sylvia Murreyman	<i>S Murreyman</i>	446 W. Riverview Ave Soldotna AK	
Catherine Bush	<i>C Bush</i>	225 Richfield Drive, Kenai AK	99611
Ann M Curtis	<i>Ann M Curtis</i>	PO Box 491 Soldotna AK	99669
HOLLY CAMPBELL	<i>Holly Campbell</i>	P.O. Box 512 Soldotna, AK	99669
Richard Stabls	<i>R Stabls</i>	PO. Box 28 Kenai AK	99611
Margaret Martin	<i>Margaret Mata</i>	368 W Beluga Soldotna AK	99666
MICHELLE A PRICE	<i>Michelle A Price</i>	51200 BISCAYNE KEENA 1	99611
Jamie Moore	<i>Jamie Moore</i>	235 W. Daisy Ln Soldotna, AK	99666
De Ann Cain	<i>De Ann R Cain</i>	319 W. Beluga St. Soldotna, AK	99669
Ellen Craenover	<i>Ellen Craenover</i>	319 W. Beluga St. Soldotna AK	99669
Joy Armstrong	<i>Joy Armstrong</i>	36345 Shady St Soldotna	
Frank Swartz	<i>Frank Swartz</i>	36345 Shady St Soldotna	12/26/02 99669
Mavis Anderson	<i>Mavis Anderson</i>	PO Box 1642 Soldotna AK	99669
AM STEELE	<i>AM Steele</i>	289 Lorraine Ct Soldotna AK	99669
RONNIE HANSON	<i>R Hanson</i>	298 W KATMAI AVE SOLDOTNA AK	99669
Varia Hicks	<i>Varia Hicks</i>	P.O. Box 2544 Soldotna AK	99669
Katie Crane	<i>Katie Crane</i>	35555 Spur Hwy PMB 246 Soldotna, AK	99669

Debbie Moore

From: Nancy Hennicksen <agroomer@ptialaska.net>
To: Debbie Moore <pathways@alaska.net>
Sent: Saturday, December 21, 2002 11:35 AM
Subject: FW: petition

We're the heart of Kenai

—Original Message—

From: Ethel [mailto:donethel@gci.net]
Sent: Wednesday, December 18, 2002 5:01 PM
Subject: petition

TO: 2003 STATE OF ALASKA LEGISLATORS
FROM: THE FOLLOWING ALASKANS AND OUTSIDE
CITIZEN
REF: LACK OF ANIMAL CRUELTY LAWS AND
ENFORCEMENT

WE/I STRONGLY URGE THE 2003 LEGISLATURE TO REVISE AND STRENGTHEN THE ANIMAL CRUELTY LAWS FOR THE STATE OF ALASKA. IN VIEW OF NUMEROUS AND INCREASING TRAGEDIES INVOLVING ANIMALS THIS SHOULD BE NUMBER ONE PRIORITY OF YOUR LEGISLATIVE BUSINESS THIS COMING SESSION. MANY PEOPLE HAVE DECIDED NOT TO INCLUDE ALASKA IN THEIR TRAVEL BECAUSE OF THESE HORRORS.

THE CURRENT STATE LAWS ARE TOTALLY INADEQUATE AND THEY PROMOTE THE MOVEMENT OF PEOPLE WHO ABUSE ANIMALS TO AVOID COMMUNITIES THAT HAVE LOCAL AND STRICT ANIMAL CRUELTY LAWS.

THERE ARE STRICT LAWS, BIG BUDGETS AND ENFORCEMENT OFFICERS TO PROTECT WILDLIFE BUT NOTHING FOR THE DOMESTIC ANIMALS, PARTICULARLY, DOGS, CATS AND HORSES.

WE ARE MOST SERIOUS IN THIS REQUEST.

PRINTED NAME	SIGNATURE	ADDRESS	DATE
Julie Eggemeyer	<i>Julie Eggemeyer</i>	48950 Tote Rd Soldotna AK 99669	12/30/02
Barbara OLSON	<i>Barbara J Olson</i>	317 Diane Lane Soldotna 99669	12-30-02
Kenya Weston	<i>Kenya Weston</i>	Po Box 3755 Soldotna 99669	12-31-02

12/23/02

Printed Name	Signature	Address	Date
Natalie A. Kohler	Natalie A. Kohler	Box 2591, Kenai, AK	1/9/02
Dawn Davis	Dawn Davis	PO Box 336 Kenai, AK	1/9/02
Debbie Allen	Debbie Allen	228 Susieana Ln Kenai AK	1/10
Donna Lester	Donna Lester	PO 891 Soldotna AK	4/13
KAREN WELLEN	Karen Weller	SOLDOTNA AK 50630 STUBBLEFIELD	2/20

Debbie Moore

From: "Nancy Henriksen" <agroome@ptialaska.net>
To: "Debbie Moore" <pathways@alaska.net>
Sent: Saturday, December 21, 2002 11:33 AM
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PRINTED NAME	SIGNATURE	ADDRESS	DATE
Curt Morris	<i>Curt Morris</i>	P.O. Box 7010 N.I.C. SIKI AK	99635
Peter M.D. King	<i>Peter M.D. King</i>	R2 Box 6968	12/26/02 AK 99635
Theresa Chalmers	<i>Theresa Chalmers</i>	Kenai Hills P.O. Box 7385 N. SIKI	12-26-02

Printed Name	Signature	Address	Date
KEVIN THOMAS	Kevin Thomas	PO Box 7248, NIKISKI	1/03/03
ELLEN BILING	Ellen Baling	P.O. Box 8681 99635	1/04/03
Nancy Brown	Nancy Brown	PO Box 1805 Kenai 99611	1-4-03
Amy Little	Amy Little	PO Box 7473 NIKISKI 99635	1-22-03
David Little	David Little	PO Box 7473 NIKISKI 99635	1/24/03
Sharon Thompson	Sharon Thompson	Box 1836 NIKISKI 99611	1-24-03
Pam Lettington	Patricia Lettington	Box 8304 NIKISKI 99635	1-24-03
Evelyn Cox	Evelyn Cox	509 Pine Ave Kenai AK 99611	1/24/03
Debbie Falk	Debbie Falk	P.O. Box 7332 NIKISKI, AK 99635	1/24/03
Steve B Falk	Steve B Falk	P.O. Box 7332 NIKISKI, AK 99635	1-24-03
MARIE TAYLOR	Mary C. Taylor	PO Box 7224 NIKISKI AK 99635	1-21-03
Marcie Curry	Marcie Curry	POB 7671 NIKISKI, AK 99635	1-20-03
Anthony Dushua Sanders	Anthony Dushua Sanders	DOROTHY DANOHE SANDERS Box 8702 NIKISKI AK 99635	2/11/03

Debbie Moore

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PRINTED NAME	SIGNATURE	ADDRESS	DATE
Leanne King	<i>Leanne King</i>	POB. 3095 K.	2/1/03
Tyler Johnson	<i>Tyler Johnson</i>	PO Box 764 Seldovia -	2-2-03
PETER A. MICCICHAR	<i>P. A. Miccichar</i>	PO Box 1544 SOLDOTNA, AK	776-2024

2/23/02

Printed Name	Signature	Address	Date
Mendi McCollum	Mendi McCollum	P.O. Box 249 Kenai	2-6-03
Faanne V. Hardesty	Faanne V. Hardesty	48271 Wild Rose Lake ^{Nikiski}	2-8-03

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Neighbors say charged couple kept flawed kennel

The Associated Press

ANCHORAGE AP) - Neighbors of two Nikiski collie breeders facing 182 counts of misdemeanor animal abuse say the operation had a notorious reputation in the rural subdivision near Island Lake Road.

But at least two people who bought dogs from Valiant Collies said the animals arrived in fine shape and that they have no complaints.

The kennel was loud and smelled and groups of collies would occasionally escape to roam, according to neighbors interviewed by the Anchorage Daily News.

"I've never, ever, ever seen any one of those dogs in good condition," said Missy Batty, who until recently lived next door to the kennels.

Batty is moving out of the area in part, she said, because of the hassle of living next door to the collie breeders.

The owners, Jonathan Harman, 49, and Athena Ann Lethcoe-Harman, 40, are awaiting a jury trial in Shelby, Mont. They were stopped Oct. 31 at the U.S.-Canada border in Montana while driving from Alaska to Arizona with a semi loaded with 171 dogs and 11 cats.

Authorities say the animals were in bad condition inside the poorly ventilated 40-foot trailer. Many could not walk and some were thin and dirty. One dog was dead.

The Harmans had received a written warning about the condition of their dogs a week earlier while their tractor trailer rig was parked at an Anchorage store, according to Anchorage Animal Control.

The dogs and cats are being fed and walked by residents of Shelby until a trial determines whether the animals can be returned to their owners.

Batty and other neighbors of the Harmans said they didn't like going up to what many call "the collie house" because of its odor, but

their friends.

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sometimes they had to visit to return escaped collies.

"Those dogs, you could hear them all the time. Several would escape from time to time. They were always really stinky," said Patty Gallien, who lives about half a mile away. "In the summer, when you open a window, you can hear the dogs barking half the night."

Nikiski has no local government and the Kenai Peninsula Borough does not have animal control powers.

Gallien said she has lived there for 12 years and the collies have been there the entire time.

Despite citing frustrations over dealing with the nuisance, neighbors of the Harmans expressed empathy for Athena Harman, describing her as a person who loved her dogs but who was so disabled by chronic diabetes that she may not have been able to cope with the responsibility.

A former kennel employee told the Great Falls, Mont. Tribune said he worked for the Harmans for 10 years, until he was 18, but quit in disgust.

Brett Encelewski, 21, said kennel conditions were decent when he started, but worsened over the years. Toward the end, he said, Lethcoe-Harman took special care of about a dozen of her favorite dogs, but kept the rest in overcrowded and filthy pens.

However, collie breeders Darlene Kerr of Regina, Sask., and Dana Giles of Nova Scotia told the Montana newspaper that dogs they acquired from Lethcoe-Harman were healthy, well-cared for and arrived in fine shape. Both said they had not visited her breeding business in Alaska.

"To say her dogs are abused, I'm sorry, I can only speak from what I've seen, but Shiloh (the first dog she got from Lethcoe (Harman)-was in excellent condition," she said.

Lethcoe-Harman is a member of the Normal Eyed Network and has been breeding her dogs to eliminate genetic problems such as Collie Eye Anomaly, an eye disorder that can cause blindness.

Kerr said Shiloh has produced five normal-eyed collies, four of which are champions. She said some breeders are criticizing Lethcoe-Harman harshly on Internet chat rooms.

"This woman is not what they're saying she is," Kerr said. "They're crucifying her. For years, Athena has been outspoken about the thing you can defeat, Collie Eye Anomaly. She has been very vocal about breeding for health."

Giles said she bought three collie puppies from Lethcoe-Harman in 1997 and 1998 and the puppies arrived in excellent shape. She said canine ophthalmologists raved about the dogs and the condition of

their eyes.

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Animal cruelty case points need for tougher laws

Montana volunteers are caring for the collies and other animals found in the Harmans' truck, and the effort is straining local resources.

Lynn Melling

Anchorage, Alaska, Nov. 8 - John and Athena Harman of Nikiski are awaiting trial in Montana, charged with animal cruelty after being arrested at the Canadian border last week.

The SPCA says, as the Harmans were heading out of town, they were stopped by Animal Control and told to clean things up. They left town anyway, only to be stopped at the border.

Volunteers in Montana are now nursing the Harmans' dogs back to health -- nearly 200 of them. The effort is taking a toll on financial and emotional resources there.

Alaska animal advocates are appalled by the Harmans' story, and say the warning signs were sitting in Nikiski for years. They also say it's time to strengthen Alaska's animal cruelty laws.

At the end of a narrow dirt road in the woods outside Nikiski sits the Harman place -- a plot of land littered with

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everything from crates and rugs to old cars. It's the remains of a now defunct dog breeding kennel known as Valiant Collies.

"Like a pigpen, there was just muck everywhere," says Stephanie Batchelder, a dog groomer who worked for the Harmans about 10 years ago.

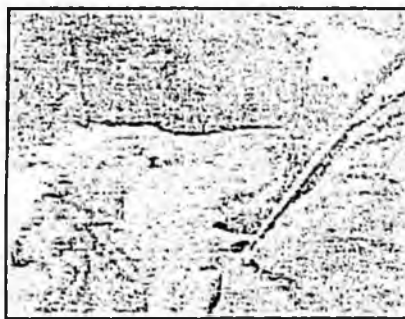
Batchelder says the dogs were in such bad condition, she lasted only a day.

"They had to have been unhealthy, being that wet and having feces on them all the time. They're going to get sores," she said.

There's little evidence now, but pictures show several dogs at a time crammed into small fenced-in areas.

Concerned neighbors only add to the picture. One woman says the place appeared to have been hot-wired -- with jumper cables hung from wire kennels. She suspects they were hooked to a battery and used to jolt the animals, to keep them under control.

It came as no surprise to some in the Nikiski area that the Harmans were arrested for animal cruelty in Sweet Grass, Montana, last week. U.S. Customs officials caught them at the Canadian border on a trip from Alaska to Arizona, with more than 170 dogs and 11 cats packed from top to bottom in a semi-trailer -- sick and living in their own waste.



Courtesy Photo / KTUU

A volunteer in Montana makes a friend

"I could've seen it coming, definitely," says Batchelder.

The Harmans face more than 180 misdemeanor counts of animal cruelty, a situation animal advocates say could have been prevented.

"It's just not right," says Diane Zarfoss of the Alaska Society for the Prevention of Cruelty to Animals. Zarfoss says the SPCA has dealt with complaints about the Harmans for years, but Alaska's laws made it nearly impossible to do anything to stop the neglect.

According to Alaska State Troopers, the law on animal cruelty states: A person cannot "intentionally inflict pain or cause prolonged suffering on an animal," nor can someone fail to care for an animal to the extent it results in the animal's death or suffering.

Violation of this law is a class A misdemeanor offense. Animal advocates say the statute doesn't do animals justice.

"They really can't do a whole lot unless they can prove that they were doing the neglect on purpose," says Batchelder.

Advocates also say the weak law is not the only problem. State enforcement should be stepped up, too.

"We can't rely on troopers to provide this service," says

Zarfoss.

Troopers are responsible for inspecting complaints of animal neglect outside the limits of a city with an animal control operation. Both advocates and troopers themselves say this puts a strain on already thin resources.

"We're short of people and, obviously, the population in this neck of the woods is growing," says First Sgt. Chuck Bartolini of the Soldotna trooper detachment.

Bartolini says they do the best they can to respond to calls of animal cruelty. Fortunately, he says, few such calls are received. He says a trooper inspected the Harmans' kennel almost two years ago, and, in the officer's opinion, the dogs were adequately cared for. Bartolini says that if there appears to be abuse, troopers will call in an animal expert. He'd like to see such a person on the borough's staff.

"It would help us greatly if the borough had some sort of enforcement power, and an animal control officer that could actually investigate these cases and take the time," Bartolini says.

Zarfoss wants to take that idea even further and hire a state humane officer, someone to deal strictly with animal cruelty cases, and who is authorized to step on private property and stop neglect as soon as complaints come in. She says lawmakers could complete the package with more clearly defined laws to support that person.

"It's getting worse. It's getting larger numbers and it's getting way out of hand," says Zarfoss.

She recalls the Carolyn Boughton case, in which a Sterling woman was charged with neglecting 66 dogs and some other animals. The animals were rescued by the SPCA a year ago this month, but the cruelty case has yet to go to trial.

"It's still in the courts. Nothing has been done," says Zarfoss. She fears the Harman case will drag on for a long time, as well.

Meanwhile, the dogs being cared for in Montana still belong to the Harmans unless they're proved guilty in court. In the meantime, the dogs -- now recovering from a traumatic trip across the border -- will have to wait to go home, wherever that turns out to be.

Currently, the Harmans are out on bond. People in the Nikiski area say John Harman may be back in Alaska, but he wasn't at his property when Channel 2 News stopped by, and the couple could not be reached for comment on this story.

To outsiders, the Harmans' breeding operation seemed to be quite professional. The couple has won competitions, and their Web site tells others how to care for dogs.

Some neighbors say they believe the Harmans had good intentions but the operation just spun out of control. Others say, quite frankly, they think the couple was running a puppy mill, breeding huge numbers of dogs to sell. The Harmans' Web site lists prices of up to \$2,000 per dog, or more.

Animal advocates say puppy mills are not unusual in Alaska and the only way they're going to be stopped is if people stop buying puppies from pet stores. Pet stores disagree that the puppies they buy are raised in inhumane conditions.

Another question to be investigated is whether the Harmans' Nikiski operation was cruel, or whether it was simply a matter of how the Harmans chose to transport the dogs as they were moving out of state.

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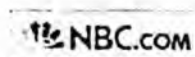
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Case Report

Alaska State Troopers are threatening to seize at least 45 dogs owned by a Sterling woman who has been accused of animal abuse for the last year.

Troopers said they found four dead dogs, two dead cats and scores of dogs needing basic care during a tour on Monday of a wooded lot where Sterling resident Caroline Boughton keeps her animals. They set an ultimatum.

As many as 20 dogs, purebred bouvier des Flandres and Kerry blue terriers, were kenneled in double-decker plywood pens inside a ramshackle Greyhound-style bus that was so fouled by urine and feces that the ammonia-like stench nearly brought tears to the eyes of veterinarian Jerry Nybakken, who assisted troopers serving a search warrant.

Two of the terriers had been killed by a bouvier, which gnawed through the plywood roof of its crate to get at the smaller dogs housed overhead. The body of one of the terriers was firmly wedged in a hole and its legs had been chewed from below, Nybakken said.

The rest of the dogs -- which included a mix of mutts and huskies -- were chained, cabled and roped to trees, trucks and other objects. Some were in much better shape than others.

Few of the dogs had shelter. Food and water bowls were overturned and appeared unattended, Nybakken said. Warm bedding such as straw was absent. Inside the bus, the dogs' fur was matted and covered with feces and every pen was wet with urine, he said.

"I think we have a case here of neglect, bordering on cruelty," Nybakken said on Tuesday. "My personal opinion is, Caroline should never have this many dogs," he said. "If she wants dogs, she's going to have to keep them within her economic means to support them."

Boughton said she still enjoys her dogs, has done nothing wrong and is struggling to juggle the demands of her landlords, whom she said insisted she kennel her dogs in the bus.

Her landlords, Milton and Lee Ross, say Boughton owes them \$1,350 in back rent and pay for helping to feed the dogs. The Rosses live on the lot and agreed to let

Boughton pay them to keep her dogs there, but now say they want her out.

Boughton, who lives nearby, said she has nowhere to go. It's hard finding a rental when you've got dozens of dogs, she said.

The Texas transplant first got into trouble last fall after a Kenai Peninsula animal cruelty organization accused her of neglect for keeping her dogs in a Sterling junkyard. She quickly hired some helpers who got straw for the dogs and began feeding them. At the time, troopers deemed her care adequate.

But after Boughton moved her animals to a 2.6-acre wooded property on Spruce Lane outside Sterling, the barking, fighting and loose dog problem prompted angry calls from her new neighbors.

Two chapters of the Society for the Prevention of Cruelty to Animals, the Alaska chapter based in Anchorage and a newly formed Kenai Peninsula group, have been struggling to help Boughton's dogs, with different tactics.

The Alaska chapter has been working with Boughton for months, helping her reduce her kennel size a few dogs at a time, said Nancy Wall, the chapter's Peninsula volunteer.

The Kenai organization has been more direct. It was the group that first demanded action last fall, and it also called in the troopers this week.

Its founder, Michele DeMilta, accepted four or five of Boughton's sickest dogs. Those dogs were to be taken to a veterinarian for treatment and documentation, Nybakken said. DeMilta declined to comment until the situation is resolved.

Troopers said they would like to come back Friday and see that Boughton is providing adequate care for her animals. But Tressler said that if they get another complaint about her, they will seize her dogs.

Just what would happen with the dogs if they are seized isn't clear. Even the official number of dogs is vague. Troopers estimated that about 45 dogs were on the property. Boughton said she had many more than that. And Nybakken guessed the number might be closer to 100.

"What a mess, huh?," said Judy McConnell of Anchorage, the American Bouvier des Flandres Club's designated rescue person for the region. "This whole thing was been a nightmare for a year, as far as I'm concerned."

If a court were to make to final ruling, McConnell said, the nationwide club has the finances, expertise and contacts to place whatever dogs were deemed suitable.

Alaskans are accustomed to sled dog yards, and while that sort of kennel works with active teams of huskies, it isn't appropriate for bouviers, she said. The independent breed has a tough side and needs a lot of one-on-one love, she said.

McConnell and other bouvier fanciers describe Boughton as a "collector," a person with a good heart who wants to protect animals but lets them breed and gets overwhelmed when their numbers swell.

Two of Boughton's dead dogs are bouviers. One was found at the end of its cable tether wearing a spiked choke collar, but Nybakken said he was unsure what caused the death. The other was found with three of its paws tangled in nylon rope, he said.

Boughton, feeding Atta Boy to her dogs Tuesday evening, said she suspected foul play in both cases and wanted an autopsy on the dogs' frozen carcasses, still laying on the ice. "Both of those dogs were very active the day before yesterday," she said.

"All of a sudden they're dead, overnight. I'd like to learn why."

Troopers said a report would be forwarded to the Kenai district attorney's office for consideration of possible charges of animal cruelty, a misdemeanor. Boughton said she has tried to give away her dogs, but had no luck.

She said she refuses to take them to the pound because some would inevitably be put down. I've got too big of a heart," Boughton said. "All I want for them is a home."

Case Updates

Posted: Apr 22, 2003 - 5:49 PM

The Boughton trial has once again been postponed. The Judge did give admonishment that Ms. Boughton needs to work with her doctors so that she can be lucid even if in some discomfort by the new trial call date of 7/25 and trial set for 8/5.

Posted: Feb 5, 2003 - 9:49 AM

Boughton rescue trial has been postponed until 4/22/03

References

- [Anchorage Daily News](#)

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Sterling woman charged with animal cruelty

ANCHORAGE (AP) -- A Sterling woman has been charged with nine criminal counts of animal cruelty for keeping dozens of underfed, filthy dogs

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Alaska State Troopers found 66 dogs under Caroline Boughton's care in a Sterling yard last November.

According to court documents some of the dogs were found dead, others needed prompt medical care and still others were so sick they had to be euthanized. Troopers seized the dogs.

Boughton, is scheduled to go to trial Oct. 29 in Kenai.

Animal welfare activists who treated **Boughton's** dogs and placed them in new homes say there is easily enough videotape and documentation to support those charges.

"It's pretty cut and dried. We have records on each and every animal on the property that was taken in," said Diane Zarfoss, clinic director of the Alaska Society for the Prevention of Cruelty to Animals.

Boughton was reportedly living in Nikiski and commuting to the site to feed and to provide water for the dogs. Most were bouvier des Flandres and kerry blue terriers. A couple of bouvier carcasses were found tangled in tethers, and two terriers stored in wooden boxes had died and were partially eaten by another dog.

The rest were in varying states of health, but all suffered from malnutrition, Zarfoss said. Many were treated for eczema, skin mites and infections of the ears and eyes.

Dogs that were strong enough to recover have all been placed. The last -- a bouncy, 100-pound malamute mix -- was scheduled to arrive at its new home today, she said.

Search

Boughton was the subject of troopers investigations for a year before she agreed to give up her dogs. In fall 2000, she was criticized for keeping the animals tied to wrecked cars in a Sterling junkyard before moving them across the Sterling Highway to another location.

Troopers were called once more, this time during a cold snap last November that drove temperatures down to 20 below zero.

A troopers report said officers wanted to look inside a large bus that **Boughton** had converted into an animal carrier. She said she forgot the key. They cut a lock off the door and were forced back by the ammonia-like stench of urine until the vehicle was ventilated, the report said.

Sixteen dogs were kept inside wooden boxes in the bus without food, water or dry bedding. They were covered in frozen urine and feces.

A few days after the inspection, an Alaska SPCA volunteer who had worked with **Boughton** over the months persuaded her to turn over her animals voluntarily.

The resulting rescue cost the Alaska SPCA about \$30,000, Zarfoss said. The group wants to see **Boughton** convicted, punished and made an example, she said. Alaska SPCA gets 10 to 12 calls a year about large-scale problems but cannot handle them all.

"She's proved over the last 10 years or plus that she is not a responsible animal owner," Zarfoss said.



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May 07, 2003
Fairbanks, AK

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Article Published: Tuesday, May 06, 2003 - 3:08:15 AM AKST

Convoy transports collies seized in Montana

The Associated Press

GREAT FALLS, Mont.—Nearly 200 collies and other animals that were seized in an animal cruelty investigation involving their Alaska owners have been moved from Shelby to Great Falls, Mont.

The owners, Jon Harman and Athena Lethcoe-Harman, were arrested last fall.

The animals spent six months at Camp Collie, a 4-H barn at the Marias Fairgrounds near Shelby. They'll likely spend the next several months in a 20,000-square foot warehouse--dubbed Camp Collie Great Falls--as the legal case against their owners continues.

About 100 volunteers were there to place the dogs in metal kennels tall enough for people to stand in.

The animals were brought to Great Falls because 4-H'ers needed their barn in Shelby and local residents were worn out from caring for the animals since the Harmans were arrested on Nov. 1.

The animals had ridden 2,240 miles in nine days in a crowded tractor trailer from Nikiski, Alaska, to the Sweet Grass border station when customs officials found them dehydrated, weak, sick and cold.

On Sunday, sheriff's cars with flashing lights led a convoy of 30 horse trailers, vans and animal rescue vehicles down Interstate 15 to deliver the 170 collies, six other dogs and 16 cats to Great Falls.

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May 07, 2003
Fairbanks, AK

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Article Published: Monday, May 05, 2003 - 9:00:07 AM AKST

Convoy transports collies from Shelby to Great Falls

By Associated Press

GREAT FALLS, Mont.

Nearly 200 collies and other animals that were seized in an animal cruelty investigation involving their Alaska owners have been moved Shelby to Great Falls, Mont.

The owners, Jon Harman and Athena Lethcoe-Harman, were arrested last fall.

The animals spent six months at Camp Collie, a 4-H barn at the Marias Fairgrounds near Shelby. They'll likely spend the next several months in a 20,000-square foot warehouse _ dubbed Camp Collie Great Falls _ as the legal case against their owners continues.

"This is way, way nicer," Toole County Undersheriff Don Hale said. "The story's not over, but it just got better for the dogs."

About 100 volunteers were there to place the dogs in metal kennels tall enough for people to stand in. The 16 cats have a separate carpeted room.

The animals were brought to Great Falls because 4-H'ers needed their barn in Shelby and local residents were worn out from caring for the animals since the Harmans were arrested on Nov. 1.

The animals had ridden 2,240 miles in nine days in a crowded tractor trailer from Nikiski, Alaska, to the Sweet Grass border station when customs officials found them dehydrated, weak, sick and cold. The Harmans were moving to Arizona.

On Sunday, sheriff's cars with flashing lights led a convoy of 30 horse trailers, vans and animal rescue vehicles down

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Interstate 15 to deliver the 170 collies, six other dogs and 16 cats to Great Falls.

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Toole County, the American Working Collie Association, The Humane Society of the United States and private donations are paying for the animals' care.

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The Harmans, who followed the caravan to Great Falls, have pleaded innocent to 181 misdemeanor counts of animal cruelty and their first trial ended with a hung jury in January. A second Justice Court trial is expected to get underway later this month.

- Woman accused in
club thefts and credit
card fraud

The Harmans weren't allowed into the warehouse on Sunday, but will be permitted an hourlong visit each weekday, officials said.

The Harmans have been living in Shelby since December. They would not comment Sunday on whether they plan to move to Great Falls.

As the animals were being loaded in Shelby, Lethcoe-Harman sat behind yellow police tape, dictating into a tape recorder her comments on the conditions of each dog. Her attorney filed a motion last week asking that the charges be dismissed on grounds that authorities have failed to properly keep track of which dogs are kept in what pens.

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Article Published: Thursday, April 24, 2003 - 9:30:28 AM AKST

Judge says nearly 200 dogs can be moved to Great Falls

By Associated Press

CHOTEAU, Mont.

Nearly 200 animals, most of them collie dogs, can be re-located from Shelby to Great Falls beginning as early as Friday, a justice of the peace ruled Wednesday.

Volunteers have spent nearly six months caring for the dogs in a 4-H barn in Shelby, where they've been kept as evidence in an animal cruelty case involving their Alaska owners.

There are 170 collies, five other dogs and 16 cats to be housed in a 30,000-square-foot metal building in Great Falls.

Teton County Justice of the Peace Pete Howard said he'll now go to work finding a place to retry the dogs' owners, Jon Harman and Athena Lethcoe-Harman, on charges they neglected the animals last fall during a trip to Arizona.

The Harmans were charged with 181 counts each of misdemeanor animal cruelty after authorities discovered 166 collies, five other dogs and 10 cats in the rear of their tractor-trailer as the couple tried to cross the Canadian border into the United States on Halloween night.

When they were stopped at the border, the Harmans said they were in the process of moving from Nikiski, Alaska to an area south of Woodruff, Ariz.

Officials said the animals were thin, dehydrated, weak and sick after the nine-day, 2,240-mile trip.

A six-person Toole County Justice Court jury deadlocked in the couple's first trial in January, resulting in a mistrial.

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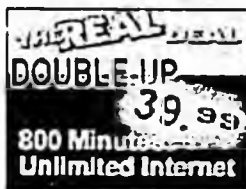
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Howard said he's looking to retry the case in Anaconda, Butte or Helena, all places out of the reach of the Great Falls media, where publicity about the collies could hinder efforts to seat an unbiased jury. Howard hopes to preside over the trial the week of May 12 or May 19, he said.

He scheduled another hearing for the afternoon of May 9 in the Teton County Courthouse in Choteau.

Howard took over the case after Toole County Justice of the Peace Janice Freeland recused herself following the seven-day January trial.

Toole County Undersheriff Don Hale said the animals will be moved in small groups, probably next week but beginning possibly as early as Friday. He said officials intend to meet a May 1 eviction deadline set by Marias Fair officials.

Hale said the Harmans did not object to moving the dogs.

"It's pretty obvious ... it's in the best interest of the dogs and that's what the whole situation is about," he said.

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Email for new Justice of the peace for 2nd trial

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Tuesday, March 4, 2003

Collie owners to be tried again on animal cruelty charges

By CAROL BRADLEY Tribune Staff Writer

CHOTEAU -- Jon Harman and Athena Lethcoe-Harman of Alaska will be tried a second time on animal cruelty charges stemming from the discovery of 181 collies and other animals in the tractor trailer last fall, a Teton County justice of the peace ruled Monday. The trial is expected to take place in mid to late April after he's had a chance to sort through motions, Judge Pete Howard said. He'll determine the location of the trial in a matter of weeks, depending in part on whether a change of venue is requested. The Harmans asked, but Howard refused to give them custody of their animals in the meantime, with one exception: Lethcoe-Harman, a diabetic, may reclaim a short-haired collie she says helps alert her when her blood sugar is about to drop. Even if the dog, Panache, had no medical intuition, "Dogs are pretty nice to have around," Howard said. That was his only concession to the Harmans of Nikiski, Alaska. The couple was arrested last Nov. 1 when U.S. customs inspectors discovered 166 collies, five other dogs and 10 cats crammed into the back of the Harmans' tractor trailer when they arrived at the Sweet Grass border stop late Halloween night. The animals had traveled 2,240 miles over nine days. They were malnourished, dehydrated, shivering, sick and distressed, according to sheriff's deputies. One dog was dead. Toole County charged the Harmans with 181 counts of misdemeanor animal cruelty. Each count is punishable by a fine of up to \$500 and up to six months in jail. A seven-day Justice Court trial ended in a mistrial in January when the six-person jury failed to reach a unanimous verdict. One of the jurors wanted to convict the Harmans. The case has attracted national attention in part because, for four months now, Toole County residents have operated "Camp Collie" at the Montana State Fairgrounds. Supporters from across the country have donated more than \$100,000 to help care for the dogs, and animal lovers from Florida to California have flown to Montana to help feed, water, groom and walk the collies. Spectators whispered "Yes!" under their breaths as Howard denied the Harmans' requests first to dismiss the case and then to let them move their dogs to Arizona while they await a second trial. Whether the dogs can remain in Shelby is another matter, however. Toole County Sheriff Donna Mattoon testified that the local 4-H club wants its building back by the first of April, although she said the organization might be willing to extend that deadline. The regional office of the Humane Society of the United States is scouting for new locations to house "Camp Collie," but no deal has been announced. On the witness stand, Lethcoe-Harman described the 40-foot-by-40-foot metal Quonset hut and four dog runs awaiting the collies on the Harmans' property south of Woodruff, Ariz. Defense attorney Scott Albers presented an affidavit signed by Winslow, Ariz., veterinarian Emerson Scott noting that the Harmans' new kennel had his approval. Contacted later Monday, Scott said the kennel wasn't completed when he visited in December, but he was impressed by the "extremely big" size of the four runs and by the Harmans' interest in treating their dogs humanely. Deputies said interest in Lethcoe-Harman and

Harmans interest in treating their dogs humanely. Parents sold interest Lethcoe-Harman said has given her parents, Jim and Nancy Lethcoe, a secured interest in the dogs in exchange for roughly \$30,000 that she can apply toward her legal bills. The Lethcoes are living in Arizona would be able to care for the dogs while the case against the Harmans continues, Lethcoe-Harman said. She repeated her desire to adopt out about 70 of the collies. Under cross-examination, she acknowledged that the kennel permit granted to her by Navajo County would allow an unlimited number of animals. Albers spent half an hour trying to prove that the record keeping during the first trial was inadequate and therefore grounds for rejecting a second trial. Howard denied the motion. Albers also argued that, given the lack of evidence demonstrated by the hung jury, there was no probable cause to go forward with the case. When he opened a book to cite an argument he hadn't included in his written motion, Howard stopped him and told him to close the book. 'Retrial's appropriate' Montana has a long history of handling mistrials, Howard said. "I can't imagine the legislature or the state Supreme Court would have created a Catch-22 situation" by which a mistrial would negate retrying a case, he said. Albers said he would ask the state Supreme Court to review that decision, but agreed that Howard shouldn't wait to hear the results before proceeding. The bulk of the 2 1/2-hour hearing was spent discussing Lethcoe-Harman's dissatisfaction with the care of the collies in Shelby. She said Toole County authorities not only allowed Jon Harman's personal fox terrier, Kryptonite, to be stolen out from under them and neutered, but they dodged questions about the theft for more than a month. 'The dog disappeared two days after Christmas and was returned on Valentine's Day. Under oath Toole County Undersheriff Don Hale said he didn't disclose the incident earlier because it was still under investigation and he wasn't certain the Harmans themselves hadn't taken Kryptonite. He said he also didn't want to upset Lethcoe-Harman any more than she already was in light of the upcoming trial. He told her of the dog's disappearance the night the mistrial was declared. Hale said the dog was traced to Lethbridge, Alberta, resident Kerry Lee K... felon charges are pending. Didn't know about surgery Lethcoe-Harman, who months ago to be near the dogs, also protested that no one told her or asked for permission to perform surgery on a 10-year-old female collie, Link. The dog died last month, a couple of days after undergoing surgery for an anal-rectal tumor that was obstructing her bowels. Mattoon said she didn't think it was necessary to inform Lethcoe-Harman every time one of her dogs needed medical treatment. "The animals are under my care and custody," Mattoon said. If a problem arises, "We take care of it. We keep a record of it." Albers tried to make an issue of the Humane Society's involvement in looking for new Camp Collie sites. Lethcoe-Harman said Jean Lea, president of the American Working Collie Association -- which has donated tens of thousands of dollars in supplies and manhours toward caring for the collies -- co-owns a collie that has competed against Lethcoe-Harman's at shows. Albers questioned openly whether all of the money raised by the Humane Society and the AWCA on behalf of the collies is actually going to the dogs. 'Dogs too fat' Lethcoe-Harman also complained that life at Camp Collie is making dogs obese. On a veterinarian's scale of 1 to 9, she likes to keep her dogs at a 3 or 4. Lethcoe-Harman said. She said most of the dogs are now at 6 or 7 and some have reached a 9. "One morning one of the bitches could barely stand up, she was so fat," Lethcoe-Harman protested. "That wasn't the same one that had to be carried out of the truck" the night of Nov. 1, asked County Attorney Joe Coble, who's helping prosecute the case. Veterinarians testified during the first trial that a number of the Harmans' dogs were so emaciated they ranked a 2 on the scale. Howard said the dogs were being treated well and humanely under Toole County's care and would remain in the county's custody. 'Agree on care' The judge ordered both sides to draft an agreement addressing the care of the dogs. Among other things, Lethcoe-Harman wants permission to tape the ears of show-worthy collies so they will curl the proper degree. Howard told her she's not allowed to take Panache outside Toole County except to Cut Bank, which Lethcoe-Harman said is a frequent destination. The judge will review motions regarding the trial at 10 a.m. April 4.

Calgary Herald article by Deborah Tetley:

Dog trial juror advises prosecutor to stick to "issues"

Deborah Tetley Calgary Herald

Now that a Montana judge has granted a retrial in the infamous Shelby dog abuse case, a mix of the hung jury in the first hearing has advice for lawyers, defendants and jurors involved in the next round. "The trial kept getting run off the rails by issues that had nothing to do with the charges," Dan Roark, 22, said Monday. "We had a responsibility that would change someone's life forever - a really big deal we all took seriously - and a lot of the testimony wasn't about abuse charges." Roark was on the six-person jury that became deadlocked in January after a seven-day animal abuse trial here. He said the charges are unfounded and the dire condition of the dogs described during testimony was an "over-exaggeration." An internationally known colt breeder from Alaska, Athena Lethcoe-Harman, and her husband, Jon Harman, were each charged with 181 counts of animal cruelty on Oct. 31 after they were pulled over at the Alberta-Montana border at Sweetgrass. Experts testified the 171 dogs, mostly collies, and 10 cats were emaciated and dehydrated. "I think that was over-exaggerated," Roark, a dog owner, said. "She did the best she could considering she was moving everything she owned. "If they did abuse the dogs - I don't think they did - the prosecution did not prove it beyond a reasonable doubt," Roark said. "I like to see her get her dogs back." Roark spoke out for the first time on the same day Teton County Justice Pete Howard rejected several motions from the defendant's lawyer, Scott Allers, to dismiss the case. In an unusual twist, however, Howard allowed Lethcoe-Harman to take her 171 dogs to her rental unit in Shelby to live with her until the case wraps up. Court heard the owner is a "brittle" diabetic and the "medical alert" dog, named Panache, is able to detect blood sugar. "I didn't think it was an unreasonable request," Howard said, adding he denied the motion to have all the dogs returned. "I don't doubt her ability to care for this dog and apparently she has a valid medical concern." This is the same dog that gave birth to a litter the night of the seizure. Howard also indicated the defence intends to appeal Monday's ruling to the Montana Supreme Court. Allers could not be reached for comment Monday. Howard plans to set a new trial date April 4. "We are starting anew," he said. "Both parties are in the same position they were back in November." Calgaryian Dee Clair, who's twice volunteered at the Shelby fairgrounds where the dogs are housed, was relieved at the decision. "I was so anxious all day," she said she couldn't stand it anymore so she called the courthouse. "As soon as I heard the news, the knot in my stomach went away." Roark said although the jury voted 5-1 in favour of the defendants, it was as cut and dry as initially thought. Roark said one man couldn't make up his mind. The same man also said he would only find the couple not guilty if the judge imposed a probation provision that would see officials visit the dogs routinely in Arizona and monitor their health. "We didn't have the authority to do that," Roark said, adding the other jurors were "convinced beyond a reasonable doubt" of the couple's innocence. Roark said it should be expected nearly 200 dogs were housed in a 13.7- by 2.4-metre trailer for eight days and 3,800 kilometres would be in bad shape. "Sure, the trip was tough on them," he said. "They were in pens most of the time, but that doesn't mean she treated them any differently than anyone else would." Most of the jury was convinced the couple let the dogs out of the trailer to walk, water and feed them on a regular basis. Roark said. Court heard Harman slept while his wife let the animals out for up to nine hours at a time. Sometimes he would help her move the heavy fencing. "We saw pictures of her at the border freezing in nothing but a poncho and taking care of the animals by herself," Roark said. "I think the evidence we were shown of some dogs was only of the worst conditions." Two veterinarians and the director of the U.S. Humane Society testified the dogs were in some of the worst physical shape they'd seen in their careers. The defence has maintained that an overnight delay at the border caused the animals to become thin, diseased and dehydrated. One dog died after breathing in its own waste. Roark said it didn't matter that the defence admitted lying to several authorities.

along the way about the number of dogs in the truck. "It wasn't enough to convince us she a or neglected her dogs," he said. "I needed more evidence of abuse." Roark initially believed Harmans were guilty and began to change his mind when the trial visited Camp Collie. "She knew all the dogs by name," he said of Lethcoe-Harman. "Maybe she was making it up, but thought that was impressive and showed she cared about them all individually."

tetleyd@theherald.southam.ca

Jan. 22, 2003

UPDATE 1/22/03 on the Montana Collies

Statement by AWCA President Jean Levitt, from Shelby, MT

Permission to crosspost

At 9 AM opening arguments began. Athena Lethcoe-Harman and John Harman were charged with 181 counts of animal cruelty. The original charge of 182 counts was changed because authorities originally thought there were 11 cats instead of 10.

Defense attorney Scott Albers stressed the importance of the Valiant kennel because of genetic work. Ms. Harman was doing over the past 20 years with collie eye anomaly. He explained she needed a large amount of dogs to carry out her work. He explained the Harmans were moving to Arizona: 1, because of the weather; 2, larger population to sell unneeded dogs to keep number of dogs down. He explained the normal practice in Arizona was to just shoot all dogs no longer needed in a kennel. She chose to truck the excess dogs to Arizona rather than shoot them; 3, more stud dogs available; 4, many Europeans are interested in her dogs. In Arizona she can ship more dogs to Europe; 5, she is diabetic and needed a warmer climate.

Albers stressed how carefully the Harmans planned the trip to ensure it would go well because of the importance of AKC registration.

Prosecutor Merle Raph, assisted by Teton County attorney Joe Coble, called U.S. Customs Inspector Russell Hancock of the Port of Sweetgrass. Hancock testified the Harmans said they were transporting 105 dogs, and that each dog had its own kennel except for a few puppies. Concerned that the dogs needed food and water, he stated he discussed this with Ms. Harman. She replied they didn't have any food. The defense pointed out it had only been 12 hours since they had been last fed and watered. He stated she wanted to buy food but that it was 10:30 at night and the nearest open store was about 60 miles away. They had some water in a blue plastic barrel. According to the inspector at Sweetgrass, the only water on the truck was in the bottom of the crates soaked in urine and fecal material. Inspector Hancock testified he detained the Harmans to get a veterinarian to check the overall health of the animals. He said it was an unusual case.

Deputy Sheriff Mike Lamie described inching his way to the back of the truck sideways along the filthy narrow aisle after the chainlink fencing panels were removed. He described the urine and fecal material that dripped onto his uniform from the crates piled up on the sides of the truck. He looked into the pens with his flashlight and saw the collies wet with urine and fecal material. He described the foul smell, the 0 degree temperature, and the frozen condensation on the ceiling of the poorly ventilated truck. He called the Toole County Sheriff's Office in Shelby and reported his findings to then-Undersheriff Donna Matoc. She also called in Dr. Hardee Clark, Shelby veterinarian, to assess the condition of the dogs. The portable fence panels from the truck were set up outside, and about 20 dogs were offloaded. He testified Ms. Harman began giving the dogs water, and attempted to scoop out filth from the bottom of some crates. He described two collies separated from the others, not drinking water, and appearing listless. Deputy Lamie testified Dr. Clark asked Ms. Harman why two dogs appeared unwell, and were separated. She said they were separated because they were recovering from narcolepsy. Deputy Lamie explained he felt a crime was being

committed.

Defense attorney Albers pointed out Ms. Harman was diligently watering the 15-20 dogs in the pen, and cleaning their empty crates. He reviewed Deputy Lamie's written report and asked him about his statement, Frozen particles of liquid in the dogs fur. Albers explained there had been a flood in Alaska before the Harmans began their trip.

Prosecutor Merle Raph called Dr. James Becker, DVM, the Port of Sweetgrass veterinarian. He described the sanitation Very filthy, filthy cages, filthy animals, and some cleaning taken place before I got there. He assessed the overall condition of the dogs, saw one dog basically OUT, couldn't get up, died shortly. His decision Must clean up situation as soon as possible and get those dogs treated. He further stated, Dogs were definitely on the thin side. He wanted to see if these critters were able to stand. He testified he asked Ms. Harman, What happened? She explained, Fire. He testified he asked if she had considered aborting the mission. He testified that she said she didn't think they would make it through the winter in Alaska.

Court was then adjourned until 9 AM Thursday. The trial is expected to last through Friday.

Thea Sperline, professional groomer Kay Bullard, and I drove out to Camp Collie today to see the dogs at lunchtime. They are clean, well fed, and of course continuing to receive veterinary care. The dog with the most serious hernia has had surgery and is recovering nicely. AWCA is proud to be able to pay his bill, and we thank the animal community for making that possible.

Calmly, Jean Levitt, President AWCA Lisa King, AWCA Director AWCA Rescue Officer and Members of AWCA

If you would like to assist AWCA with this rescue effort, you may send a check to:

Bethany Burke AWCA Treasurer 2807 Lee Trevino Court Shalimar, FL 32579

Make the check out to AWCA and in the memo area note: collie rescue-medical, collie rescue-stainless steel, or collie rescue-general.




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Saturday, March 22, 2003

Attorney asks high court to reject collie retrial

By CAROL BRADLEY
Tribune Staff Writer

The attorney for accused collie abusers Jon Harman and Athena Lethcoe-Harman is asking Montana's Supreme Court to rule out a retrial of the animal cruelty case on grounds that the Harmans shouldn't be tried twice for the same alleged crime.

Even if the Supreme Court votes down the motion it could delay the second trial, which was tentatively planned for mid- to late-April.

The high court typically gives the opposing side 15 to 30 days to respond to such motions, then acts on the case a month or two later, assistant clerk Joni Holliday said. In this case, Toole County Attorney Merle Raph said he'll ask the high court to expedite matters in hopes of meeting the scheduled trial date.

Teton County Justice of the Peace Pete Howard said Albers' motion definitely could affect the trial date.

Howard took over the case after Toole County Justice of the Peace Janice Freeland recused herself when the first trial ended in a hung jury in January. He rejected a similar "double jeopardy" motion from defense attorney Scott Albers on March 3, siding instead with Raph, who argued that jury verdicts must be unanimous in Montana and that double-jeopardy theories don't apply to hung juries in Justice Court.

The Supreme Court received Albers' motion Thursday.

Meanwhile, Raph is asking Howard to hold the trial somewhere other than Shelby, where publicity about the case has made it difficult to find jurors who haven't already formed an opinion about the Harmans' guilt.

Toole County sheriff's officials arrested the Harmans, a Nikiski, Alaska, couple, Nov. 1 after U.S. Customs inspectors discovered 166 collies, five other dogs and 10 cats crowded into the back of the couple's tractor trailer

when they tried to cross the Canadian border into the United States.

The Harmans were headed to a new home in Arizona. They had transported the animals 2,240 miles over nine days. The dogs were dehydrated, weak and sick. One died later that day.

The Harmans each face a maximum of six months in jail and-or a \$500 fine for each of 181 counts of misdemeanor animal cruelty.

Since their arrest, most of the couple's collies have been housed at the Marias Fairgrounds just outside Shelby, where paid search and rescue workers and a small core of volunteers have kept them fed, watered and exercised.

The fair's livestock committee wanted the dogs out of the 4-H building by April 1, but agreed to extend the deadline until May 1, Undersheriff Don Hale said. Officials are eyeing a couple of possible alternative sites in Toole County to move the dogs as well as a possible site in Great Falls.

The facility in Great Falls has five fenced acres -- ideal for walking the dogs -- and is near North Star Boulevard, Linda Hughes, director of the Humane Society of Cascade County, confirmed Friday. She did not have the exact address.

Moving the dogs to Great Falls would give a much-needed break to Shelby residents, who have borne the brunt of the animals' care. But "we have to remember that even though they are beautiful animals, they're also evidence," Hughes said.

Toole County Sheriff Donna Mattoon ultimately will decide where to move the dogs.

Housing is necessary because, even if the second trial is over by May 1, the verdict could be appealed to District Court.

The American Working Collie Association is now paying for two to three workers to clean the pens of the dogs, but a half dozen volunteers -- more on weekends -- devote hours a day to walking them.

Toole County Extension Agent Tyler Lane said 4-H folks need time to sanitize the building and pour a concrete floor before the fair starts in mid-July. The floor was planned before the collies' arrival.

"The quicker the dogs are moved the less chance of disease being transferred to livestock," Lane said.

The collies have suffered from a half dozen parasites, including giardia, coccidia, ear mites, ringworm and hookworm. The worst is hookworm, said Dr. Hardee Clark, the Shelby veterinarian who has been treating the

dogs.

Aside from the collies, "we just don't have hookworm in this area," Clark said. "But now we've got contaminated ground there. If we have a mild, moist summer we could really cause an infestation of hookworm."

He added, however, that hookworm is "very species specific" and that while dogs and cats might be at risk, the collies' hookworm would not spread to horses, cattle, sheep or pigs.

Roughly 70 cattle, 80 pigs and 25 lambs from Toole, Liberty, Glacier and Pondera counties are expected to be shown in the facility during fair week July 16-20, Lane said.

Clark said collie caregivers have been "pretty good" about scooping poop in the field next to the barn where the dogs are walked. He said harrowing the soil around the building would help dry out the soil and prevent the spread of parasites.

Legal maneuvering continues behind the scenes as well. When a second collie died March 7, Albers filed a motion asking that a forensic autopsy be performed. Howard ruled that a necropsy would suffice.

What difference an autopsy would make was unclear. Albers was not available for comment Friday.

The results of the necropsy aren't yet back from the state, Clark said Friday.



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 Tuesday, March 4, 2003

Collie owners to be tried again on animal cruelty charges

By CAROL BRADLEY
 Tribune Staff Writer

CHOTEAU -- Jon Harman and Athena Lethcoe-Harman of Alaska will be tried a second time on animal cruelty charges stemming from the discovery of 181 collies and other animals in their tractor trailer last fall, a Teton County justice of the peace ruled Monday.

The trial is expected to take place in mid to late April after he's had a chance to sort through motions, Judge Pete Howard said. He'll determine the location of the trial in a matter of weeks, depending in part on whether a change of venue is requested.

The Harmans asked, but Howard refused to give them custody of their animals in the meantime, with one exception: Lethcoe-Harman, a diabetic, may reclaim a short-haired collie she says helps alert her when her blood sugar is about to drop.

Even if the dog, Panache, had no medical intuition, "Dogs are pretty nice to have around," Howard said.

That was his only concession to the Harmans of Nikiski, Alaska.

The couple was arrested last Nov. 1 after U.S. customs inspectors discovered 166 collies, five other dogs and 10 cats crammed into the back of the Harmans' tractor trailer when they arrived at the Sweet Grass border stop late Halloween night.

The animals had traveled 2,240 miles over nine days. They were malnourished, dehydrated, shivering, sick and distressed, according to sheriff's deputies. One dog was dead.

Toole County charged the Harmans with 181 counts of misdemeanor animal cruelty. Each count is punishable by a fine of up to \$500 and up to six months in jail.

A seven-day Justice Court trial ended in a mistrial in January when the six-person jury failed to reach a unanimous verdict. Only one of the jurors

wanted to convict the Harmans.

The case has attracted national attention in part because, for four months now, Toole County residents have operated "Camp Collie" at the Marias Fairgrounds. Supporters from across the country have donated more than \$100,000 to help care for the dogs, and animal lovers from Florida to California have flown to Montana to help feed, water, groom and walk the collies.

Spectators whispered "Yes!" under their breaths as Howard denied the Harmans' requests first to dismiss the case and then to let them move their dogs to Arizona while they await a second trial.

Whether the dogs can remain in Shelby is another matter, however. Toole County Sheriff Donna Mattoon testified that the local 4-H club wants its building back by the first of April, although she said the organization might be willing to extend that deadline.

The regional office of the Humane Society of the United States is scouting for new sites to house "Camp Collie," but no deal has been announced.

On the witness stand, Lethcoe-Harman described the 40-foot-by-40-foot metal Quonset hut and four dog runs awaiting the collies on the Harmans' property south of Woodruff, Ariz. Defense attorney Scott Albers presented an affidavit signed by Winslow, Ariz., veterinarian Emerson Scott noting that the Harmans' new kennel met his approval.

Contacted later Monday, Scott said the kennel wasn't completed when he visited it in December, but he was impressed by the "extremely big" size of the four runs and by the Harmans' interest in treating their dogs humanely.

Parents sold interest

Lethcoe-Harman said she has given her parents, Jim and Nancy Lethcoe, a secured interest in the dogs in exchange for roughly \$30,000 that she can apply toward her legal bills. The Lethcoes are living in Arizona and would be able to care for the dogs while the case against the Harmans continues, Lethcoe-Harman said.

She repeated her desire to adopt out about 70 of the collies. Under cross-examination, she acknowledged that the kennel permit granted to her by Navajo County would allow an unlimited number of animals.

Albers spent half an hour trying to prove that the record-keeping during the first trial was inadequate and therefore grounds for rejecting a second trial. Howard denied the motion.

Albers also argued that, given the lack of evidence demonstrated by the

hung jury, there was no probable cause to go forward with the case. When he opened a law book to cite an argument he hadn't included in his written motion, Howard stopped him and made him close the book.

'Retrial's appropriate'

Montana has a long history of handling mistrials, Howard said.

"I can't imagine the legislature or the state Supreme Court would have created a Catch-22 situation" by which a mistrial would negate retrying a case, he said.

Albers said he'll ask the state Supreme Court to review that decision, but agreed that Howard shouldn't wait to hear the results before proceeding.

The bulk of the 2½-hour hearing was spent discussing Lethcoe-Harman's dissatisfaction with the care of the collies in Shelby. She said Toole County authorities not only allowed Jon Harman's personal fox terrier, Kryptonite, to be stolen out from under them and neutered, but they dodged questions about the theft for more than a month.

The dog disappeared two days after Christmas and was returned on Valentine's Day. Under oath, Toole County Undersheriff Don Hale said he didn't disclose the incident earlier because it was still under investigation and he wasn't certain the Harmans themselves hadn't taken Kryptonite. He said he also didn't want to upset Lethcoe-Harman any more than she already was in light of the upcoming trial.

He told her of the dog's disappearance the night the mistrial was declared.

Hale said the dog was traced to Lethbridge, Alberta, resident Kerry Lee King and said felony charges are pending.

Didn't know about surgery

Lethcoe-Harman, who moved to Shelby three months ago to be near the dogs, also protested that no one told her or asked her permission to perform surgery on a 10-year-old female collie, Link. The dog died last month, a couple of days after undergoing surgery for an anal-rectal tumor that was obstructing her bowels.

Mattoon said she didn't think it was necessary to inform Lethcoe-Harman every time one of her dogs needed medical treatment.

"The animals are under my care and custody," Mattoon said. If a problem arises, "We take care of it. We keep a record of it."

Albers tried to make an issue of the Humane Society's involvement in looking for new Camp Collie sites. Lethcoe-Harman said Jean Leavitt,

president of the American Working Collie Association -- which has donated tens of thousands of dollars in supplies and manhours toward caring for the collies -- co-owns a collie that has competed against Lethcoe-Harman's at shows.

Albers questioned openly whether all of the money raised by the Humane Society and the AWCA on behalf of the collies is actually getting to the dogs.

'Dogs too fat'

Lethcoe-Harman also complained that life at Camp Collie is making her dogs obese. On a veterinarian's scale of 1 to 9, she likes to keep her dogs at a 3 or 4, Lethcoe-Harman said. She said most of the dogs are now at 6 or 7 and some have reached a 9.

"One morning one of the bitches could barely stand up, she was so fat," Lethcoe-Harman protested.

"That wasn't the same one that had to be carried out of the truck" the night of Nov. 1, asked Teton County Attorney Joe Coble, who's helping prosecute the case.

Veterinarians testified during the first trial that a number of the Harmans' dogs were so emaciated they ranked a 2 on the scale.

Howard said the dogs were being treated well and humanely under Toole County's care and would remain in the county's custody.

'Agree on care'

The judge ordered both sides to draft a joint agreement addressing the care of the dogs. Among other things, Lethcoe-Harman wants permission to tape the ears of show-worthy collies so they will curl the proper degree.

Howard told her she's not allowed to take Panache outside Toole County except to Cut Bank, which Lethcoe-Harman said is a frequent destination.

The judge will review motions regarding the new trial at 10 a.m. April 4.

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Saturday, February 1, 2003

County will retry collie case

By CAROL BRADLEY
 Tribune Staff Writer

Stymied by a mistrial, Toole County will go to court a second time to try collie owners Jon Harman and Athena Lethcoe-Harman of Alaska on cruelty-to-animal charges, County Attorney Merle Raph announced Friday.

The trial may be held somewhere else this time around, however. Justice of the Peace Janice Freeland, who presided over the seven-day trial that ended Wednesday, has recused herself, according to Undersheriff Don Hale.

Raph said it's possible a second trial could be in four to eight weeks, but details have yet to be worked out.

The Harmans pleaded not guilty to 181 misdemeanor counts of animal cruelty. The first trial ended in a mistrial after the six-person jury was unable to reach a unanimous verdict. Five of the six wanted to acquit the Harmans. One juror wanted to convict.

The jurors made a pact not to identify which jurors voted guilty and which voted not guilty, forewoman Michelle Edwards said. The other five jurors were Toole County residents Joe Hofer, Terry Parsons, Della Dubbe and Daniel Roark.

Raph said he decided to seek a second trial after discussing the issue for the past two days with assisting prosecutor Joe Coble of Teton County and Toole County sheriff's officials.

Scott Albers, the attorney for the Harmans, declined comment, saying he's still discussing the matter with his clients.

The news assuaged animal lovers like Jean Levitt of Vermont who is president of the American Working Collie Association. The organization has raised thousands of dollars and provided elbow grease from around the country to care for the Harmans' 172 collies, five other dogs and 10 cats.

The animals have been in Toole County's custody since the Harmans were

arrested on Nov. 1.

"We wanted this news, we expected this news and we're very pleased that (Toole County) has done this," Levitt said from her hotel room in Shelby.

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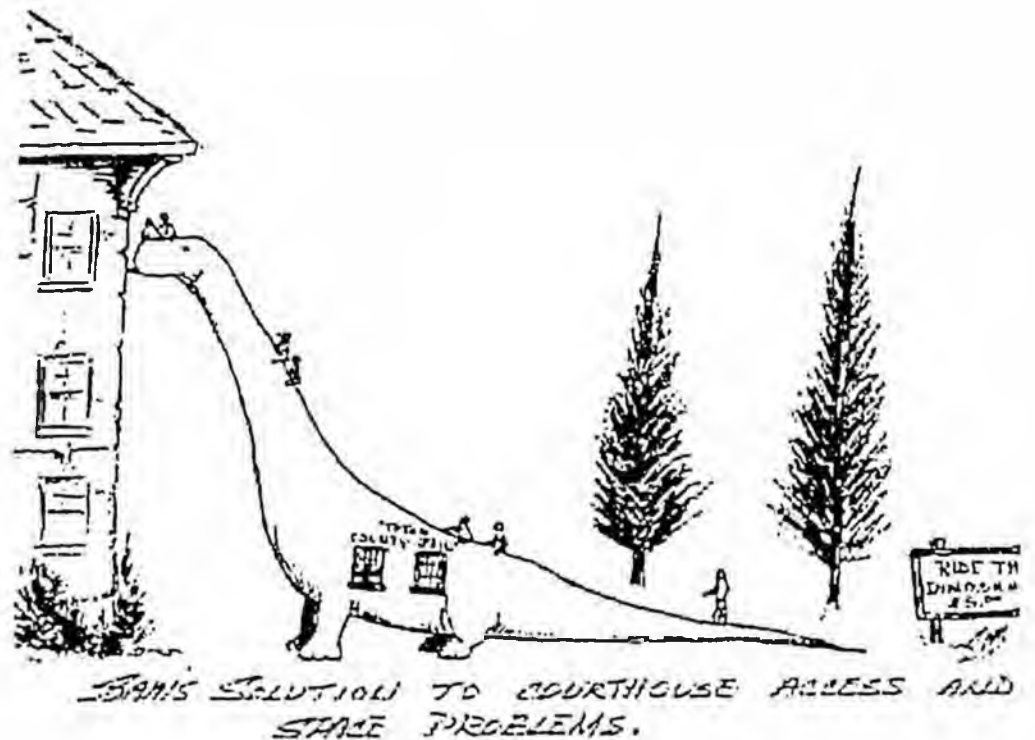
County Attorney

Joe Coble - Teton County Attorney
 Diane Graf - Legal Assistant
 P.O. Box 899
 Choteau 59422
 406-466-2860
 E-mail: joec@3rivers.net or dianeg@3rivers.net

Joe Coble, the Teton County Attorney is a full-time elected official. He represents both the county and the state of Montana and Teton County. As County Attorney, Joe is responsible for the prosecution of all felony crimes occurring in Teton County, and is also responsible for defending or prosecuting all civil claims for or against Teton County. Joe advises County departments regarding legal matters and, when necessary, represents the County in legal suits.

Please note that full-time County Attorneys are prohibited by law from:

1. Private practice
2. Representing private clients
3. Giving legal advice to private citizens.



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file HB 275 Notebook <http://www.paws.org/help/report/statelaws.htm>



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Report Animal Cruelty

Washington laws

Washington has two state animal-cruelty laws. They are RCW 16.52.205, animal cruelty in the first degree, and RCW 16.52.207, animal cruelty in the second degree.

RCW 16.52.205 Animal cruelty in the first degree.

(1) A person is guilty of animal cruelty in the first degree when, except as authorized in law, he or she intentionally (a) inflicts substantial pain on, (b) causes physical injury to, or (c) kills an animal by a means causing undue suffering, or forces a minor to inflict unnecessary pain, injury, or death on an animal.

(2) Animal cruelty in the first degree is a class C felony.

RCW 16.52.207 Animal cruelty in the second degree.

(1) A person is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the person knowingly, recklessly, or with criminal negligence inflicts unnecessary suffering or pain upon an animal.

(2) An owner of an animal is guilty of animal cruelty in the second degree if, under circumstances not amounting to first degree animal cruelty, the owner knowingly, recklessly, or with criminal negligence:

(a) Fails to provide the animal with necessary food, water, shelter, rest, sanitation, ventilation, space, or medical attention and the animal suffers unnecessary or unjustifiable physical pain as a result of the failure; or (b) Abandons the animal.

(3) Animal cruelty in the second degree is a misdemeanor.

(4) In any prosecution of animal cruelty in the second degree, it shall be an affirmative defense, if established by the defendant by a preponderance of the evidence, that the defendant's failure was due to economic distress beyond the defendant's control.

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SENATE COMMITTEE REPORT

DATE: 5/1/04

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/6/04

Judiciary Committee considered CS FOR HOUSE BILL NO. 275(FIN)

HB 275 VETERINARIANS AND ANIMALS

"An Act relating to animals, and to the care of and to cruelty to animals."

and recommends:

- be replaced with 5 CS CS HB 275 (JUD)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:
 Same Title
 New Title

House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	3/28			✓	1
DEC	4/2			✓	2
DPS	4/1			✓	4
ADM	4/5		✓		5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
Ogen			X	
French			X	
Seelins CHAIR:	✓			

HB

280

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 280
(H) Publish Date: 4/30/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An act relating to the regulation of BRU Motor Vehicles
commercial motor vehicles.... Component Motor Vehicles
Sponsor (H) FIN
Requester (H) TRA Component No. 2348

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
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						
-----------------------------	--	--	--	--	--	--

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 (FY2003) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on DMV.

Prepared by: Charles R. Hosack Phone 269-5559
Division: Motor Vehicles Date/Time 4/28/03
Approved by: Mike Miller, Commissioner Date 4/28/2003
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

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Miscellaneous						
TOTAL OPERATING	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)

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1003 GF Match						
1004 GF						
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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 (FY2003) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on DMV.

Prepared by: Charles R. Hosack Phone 269-5559
 Division: Motor Vehicles Date/Time 4/28/03
 Approved by: Mike Miller, Commissioner Date 4/28/2003
 Agency: Department of Administration

adopted NO OBJ
AMENDMENT 1

TO BE OFFERED IN THE HOUSE FINANCE COMMITTEE

BY REPRESENTATIVE CROFT

TO: HB 280

Title amendment

Page 1, line 3, after "**motor vehicles;**

Insert: "**moves authority for commercial motor vehicle regulation from the Department of Public Safety to the Department of Transportation and Public Facilities;**"

Bill Analysis

“An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money... “

Section 1. AS 19.10.060(c) repeal and reenact

Existing statute language:

AS 19.10.060(c) The department shall adopt regulations necessary to implement a commercial motor vehicle safety inspection program needed to avoid loss or withholding of federal highway money.

Proposed statute language in Sec. 1

AS 19.10.060(c) Except for requirements relating to a commercial motor vehicle driver's licensing program under AS 28, the department shall adopt regulations under AS 44.62 (Administrative Procedures Act) that are necessary to implement requirements imposed by federal statute or regulation that relate to commercial motor vehicles and that are necessary to avoid loss or withholding of federal highway money.

Effect of changes

Existing statutes allow the Department of Transportation and Public Facilities (DOT&PF) to adopt regulations relating to "...a commercial motor vehicle safety inspection program...". The proposed language allows the department to adopt regulations relating to all commercial vehicle activities excluding requirements relating to a commercial motor vehicle driver's licensing program. The intent of Executive Order 98, issued by then Governor Knowles, was to consolidate all truck regulation activities into DOT&PF with the single exception of the commercial motor vehicle driver's licensing program. The repeal and reenactment of AS 19.10.060(c) accomplishes that objective.

Section 2. AS 28.33.130(a) amend

Proposed change will add the prohibition against operating a commercial motor vehicle after being placed out of service under a regulation adopted under AS 19.10.060(c).

Section 3. AS 28.33.140(a) amend

Proposed change will provide for immediate disqualification from driving a commercial motor vehicle for the periods set out in this section for driving after being placed out of service in violation of regulations adopted under AS 19.10.060(c).

Bill Analysis

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money..."

Section 4. AS 28.33.190(10) amend

Proposed change defines an "out of service order" to include an order issued under regulations adopted under AS 19.10.060(c),

Section 5. AS 28.05.011(a)(8) repealed.

AS28.05.011(a)(8) provides the Commissioner of Public Safety authority to adopt regulations necessary to implement requirements imposed by federal law or regulation that relate to commercial motor vehicles and that are needed to avoid loss or withholding of federal highway money, other than requirements relating to a commercial motor vehicle driver's licensing program or a commercial motor vehicle safety inspection program. Sec. 5 repeals this paragraph as the adoption authority will now reside in DOT&PF and DOA.

Section 6. The uncodified law of the State of Alaska is amended.

Adds a new section to allow for changes in the references to the Alaska Administrative Code in the traffic bail forfeiture schedule for certain commercial motor vehicle offenses.

Section 7. The uncodified law of the State of Alaska is amended.

Adds a new section that provides for a transition period to allow current DPS regulations to continue in force until the new regulations are adopted by DOT&PF.

Section 8. The uncodified law of the State of Alaska is amended.

Adds a new section that provides that Sections 1-5 and 7 take effect only if Section 6 receives the two-thirds majority vote of each house required by art. IV, sec.15, Constitution of the State of Alaska.

Section 9. Sets effective date for Section 7.

Section 10. Sets effective date for the act.

Bill Analysis

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money..."

SUMMARY

Section 1 of the bill accomplishes a necessary change in regulation adoption authority. Prior to the consolidation of commercial motor vehicle regulation and enforcement into DOT&PF, the Department of Public Safety had authority to adopt CMV regulations for driver/vehicle safety and hazardous materials transport standards. Inadvertently, this authority was not transferred. This bill corrects that oversight.

Federal Motor Carrier Safety Administration regulations provide that a state becomes ineligible for Basic Program or Incentive funds under the Motor Carrier Safety Assistance Program for failure to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of its effective date. In FFY2003, Alaska will receive \$685.5 in Basic Program and Incentive Funds.

Passage of this bill is critically important as the state's adoption of federal regulations pertaining to CMV operations, driver/vehicle safety standards and hazardous materials transport have not been updated since 1995. As you can see, we are out of compliance. The Department of Transportation and Public needs the authority to adopt these regulations to avoid the loss or withholding of federal funding. Loss of these funds through failure to pass this legislation and the subsequent failure to adopt the current regulations will virtually eliminate our commercial vehicle safety enforcement effort.

The bill provisions correcting the regulation adoption authority problems and supporting the language in existing statute have been supported in the past by both the Alaska Trucking Association and Teamsters Local 959. The Department of Public Safety also supports this legislation.



Aves D. Thompson, Director
Measurement Standards and
Commercial Vehicle Enforcement
Alaska Department of Transportation
and Public Facilities
907.341.3210

Bill Analysis

"An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money..."

Applicable Code of Federal Regulation references:

49 CFR Sec. 350.335(b) A State that fails to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of its effective date will be deemed to have incompatible regulations and will not be eligible for Basic Program nor Incentive Funds.

49 CFR Sec. 355 promotes adoption and enforcement of state laws and regulations pertaining to commercial motor vehicles that are compatible with appropriate parts of the Federal Motor Carrier Safety Regulations (FMCSRs).

49 CFR Sec. 355.5, defines Compatible or Compatibility as meaning that State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs; and that State laws applicable to intrastate commerce are either identical to, or have the same effect as, the FMCSRs or fall within the established limited variances under Secs. 350.341, 350.343, and 350.345 of this subchapter. Federal Hazardous Materials Regulations (FMHRs) means those safety regulations which are contained in parts 107, 171-173, 177, 178 and 180, except part 107 and Secs. 171.15 and 171.16. Federal Motor Carrier Safety Regulations (FMCSRs) means those safety regulations which are contained in parts 390, 391, 392, 393, 395, 396, and 397 of this subchapter.

Alaska State Legislature
House Finance Committee

REPRESENTATIVE
BILL WILLIAMS

Co-Chair
(907) 465-3424
Fax: (907) 465-3793

INTERIM ADDRESS
50 Front Street, Suite 203
Ketchikan, Alaska 99901
(907) 247-4827
Fax: (907) 225-7157



State Capitol, Juneau, Alaska 99801-1182

REPRESENTATIVE
JOHN HARRIS

Co-Chair
(907) 465-4859
Fax: (907) 465-3799

INTERIM ADDRESS
State Capitol, Room 507
Juneau, AK 99801-1182

**Sponsor Statement for HB 280
Commercial Motor Vehicles: Regulations**

“An Act relating to the regulation of commercial motor vehicles to avoid loss or withholding of federal highway money, and to out-of-service orders concerning commercial motor vehicles; amending Rule 43.1, Alaska Rules of Administration; and providing for an effective date.”

House Bill 280 would transfer certain authority to regulate commercial motor vehicles from the Department of Public Safety (DPS) to the Department of Transportation and Public Facilities (DOT&PF). This change is needed to avoid losing federal highway money. The bill also directly amends Rule 43.1 of the Alaska Rules of Administration.

Under current law, the authority to adopt regulations regarding commercial motor vehicles is divided among: the Department of Administration (DOA) for licensing of drivers of commercial motor vehicles; the DOT&PF for matters relating to commercial motor vehicle inspections; and the DPS for all matters relating to commercial motor vehicles. Under this bill, the authority to adopt regulations necessary to avoid the loss or withholding of federal highway money would be vested in DOT&PF, except for matters that relate to licensing of drivers of commercial motor vehicles.

The bill corrects an oversight that occurred when implementing Executive Orders 98 and 99 in 1997. EO 98 transferred the responsibility for commercial motor vehicle safety inspections from the DPS to the DOT&PF. EO 99 transferred most functions related to motor vehicles found in Title 28 from DPS to the Department of Administration (DOA). After the issuance of EO's 98 and 99, DPS retained the authority to adopt regulations related to commercial motor vehicles, except for safety inspections and driver licensing. HB280 would transfer the remaining regulation authority in DPS relating to commercial motor vehicles to DOT&PF. The Department needs the authority to adopt these regulations to avoid the loss or withholding of federal funding.

Federal Motor Carrier Safety Administration regulations provide that a state becomes ineligible for Basic Program or Incentive funds under the Motor Carrier Safety Assistance Program for failure to adopt any new regulation or amendment to the Federal Motor Carrier Safety Regulations (FMCSR) or the Hazardous Materials Regulations (HMR) within three years of its effective date. Since the state's

adoption of federal regulations pertaining to CMV operations, driver/vehicle safety standards and hazardous materials transport has not been updated since 1995, Alaska is out of compliance.

Alaska will receive \$685.5 in Basic Program and Incentive Funds in FFY2003. Loss of these funds through failure to pass this legislation and the subsequent failure to adopt the current regulations will virtually eliminate commercial vehicle safety enforcement effort in Alaska.

The Alaska Trucking Association, Teamsters Local 959 and the Associated General Contractors of Alaska support the bill provisions correcting the regulation adoption authority problems and supporting the language in existing statute. The Departments of Public Safety and Administration also support this legislation.

Contact: Tim Barry, Aide to Representative Bill Williams, at (907) 465-3424

HB

293

HFIN

FILE

**State Legislative Status of Streamlined Sales and Use Tax Agreement
(As of May 14, 2003)**

In early 2000, representatives of state government and the business community formed the Streamlined Sales Tax Project (SSTP) to develop measures to design, test and implement a sales and use tax system that radically simplifies sales and use taxes. On November 12, 2002, 34 states and the District of Columbia involved in the Streamlined Sales Tax Implementing States (SSTIS) process approved the Streamlined Sales and Use Tax Agreement based upon recommendations put forth by the SSTP. In early 2003, state legislatures began the process of introducing legislation aimed at conforming their state sales and use tax statutes to the Agreement. The Agreement goes into effect when 10 states comprising at least 20 percent of the population of states imposing a sales tax have come into compliance. However, collection by sellers of sales and use taxes on remote sales remains voluntary under the Agreement until either Congress or the Supreme Court acts to make this collection mandatory.

State in compliance with SSTIS State participated in the negotiations of the SSTIS State is a Participating State in the SSTP State does not impose sales tax
--

State	Bill Number(s) and Sponsors	Legislative Status	Intent of Legislation	Effective Date
Alabama	HB694 introduced by Rep. Graham.		Legislation brings state into compliance with the SSTIS Agreement.	
Alaska	HB 293 introduced in the House.		Legislation establishes a state sales tax and brings the state into compliance with the SSTIS Agreement.	
Arizona				
Arkansas	SB483 introduced by members of the Senate Finance and Taxation Committee on 02/28/03.	SB483 signed into law by Gov. Huckabee on 04/11/03.	Legislation would conform the state's sales and use tax statutes to the SSTIS Agreement.	
California	SB 157 introduced by Sen. Bowen on 02/11/03	SB 157 reported from Revenue and Taxation Committee; currently pending before Senate Appropriations Committee.	Legislation would make California a participating state in the SSTIS.	
Colorado				

Connecticut	SB 328, introduced by Sen. Crisco on 01/21/03	Legislation referred to Joint Committee on Finance and Revenue.	Legislation endorses the SSTIS Agreement.	
Delaware	NO SALES TAX			
District of Columbia		The District of Columbia City Council passed a resolution in 2002 to bring the majority of the city's sales tax statutes into compliance with the terms of the SSTIS Agreement.		
Florida	S 1776 introduced by Senate Finance & Taxation Committee	S. 1776 reported from Senate Finance Committee on 03-27-03; legislature adjourned prior to House taking action on the legislation.	Legislation brings the state into compliance with the Agreement.	
Georgia				
Hawaii	HB 1226 (introduced by Rep. Say on 01/23/03) and SB 1397 (introduced by Sen. Bunda on 01/22/03).	Legislation has been approved by both Houses and sent to Gov. Lingle for signature.	Legislation allows Hawaii to become a member of the SSTIS.	July 1, 2003
Idaho	S1193 was introduced in the Idaho Senate on 04/24/03.	S1193 referred to Senate Local Government and Taxation Committee but failed to win approval by the Committee on 05/02/03.	Legislation authorizes the Tax Commission to enter into the SSTIS Agreement and make the proposed statutory changes to the state's laws.	
Illinois	SB631 introduced by Sens. Welch and Rauschenberger; HB 848, 849, 850, 851 introduced by Reps. Madigan and Currie	SB 631 approved by Senate on 03/25/03; House measures approved on 04/03/03.	Legislation will bring state into compliance with the SSTIS Agreement.	
Indiana	SB465 (introduced by Sens. Borst and Crisco on 01/21/03); HB 1815 introduced by Rep. Crawford.	Legislation signed into law by Governor on 05/08/03.	Legislation amends current Indiana statutes to conform the state's laws to the SSTIS Agreement.	January 1, 2004

Iowa	SB 1200 introduced by Sen. McKibben.	SSTIS conforming language included in HF683 and approved by the House; legislation is pending in the Senate during special session.	Legislation would bring state into compliance with the SSTIS Agreement.	
Kansas	SB 192 introduced by Sen. Corbin; HB 2264 introduced by the Committee on Taxation	Compliance language included in HB 2005 approved by both Houses on 05/07/03; legislation sent to the Governor for signature.	Legislation would bring the state into compliance with the SSTIS Agreement.	
Kentucky	HB 293 introduced by Reps. Moberly and Belcher introduced on 01-07-03;	HR 293 signed by Gov. Patton on 03/18/03.	Conforms Kentucky statutes to the SSTIS Agreement. Legislation also provides for a sales tax holiday in August 2003.	July 1, 2004
Louisiana	SB 551, SB 674, SB 708, SB719 introduced by Sen. Jones	Legislation approved by Senate on 05/01/03; legislation now pending in the House.	Legislation would bring some uniformity to the tax laws of local jurisdictions; some state conformity measures included to bring state into compliance with the SSTIS Agreement.	
Maine	HB 552 introduced by Rep. Lemoine on 02/14/03.	HB 552 referred to Committee on Taxation on 02/14/03.	Legislation would bring state into compliance with the SSTIS Agreement.	
Maryland	HB 559 introduced by Del. Hixson, et al.	Passed by the House on 03/21/03; approved by the Senate on 04/03/03.	Legislation seeks a report on the statutory changes and costs to the state to come into compliance with the Agreement.	
Massachusetts	SB 1949 introduced to make the state an Implementing State.	SB 1949 approved by the legislature on 03/05/03.	Legislation would make state a member of the SSTIS.	

Michigan				
Minnesota	SF1007, SF 1008, HR 1463, HF 1597 and SF1505	HF 1597 approved by the House on 05/06/03; SF 1505 approved by the Senate on 05/02/03.	Legislation introduced to make final amendments to state's sales and use tax statutes and bring state into compliance with Agreement. Minnesota enacted legislation in 2002 to adopt most of the provisions of the SSTIS Agreement.	
Mississippi	SB 2089 introduced on 01/24/03	Passed by both the House and Senate on 03/08/03.	Legislation would make Mississippi a member of the SSTIS.	
Missouri	SB631 introduced by Sens. Bray, Vogel, and Goode.	Legislation brings state into compliance with the Agreement.		
Montana	NO SALES TAX SB470 introduced by Sen. Mangan.	SB470 referred to the Committee on Taxation and is scheduled for a hearing on 03/06/03.	SB 224 would enact a 4 percent sales and use tax, permit certain sales and use tax exemptions, and recommends that state enter into the SSTIS Agreement.	
Nebraska	LB 282 introduced by Sen. Landis on 01/13/03	LB 282 signed by Gov. Johanns on 05/06/03.	Legislation would bring state's laws into compliance with the SSTIS Agreement.	January 1, 2004
Nevada	AB514 introduced by Committee on Taxation	AB 514 approved by the Assemb' / on 04/22/03; sent to the Senate for consideration.	Legislation brings state's laws into compliance with the SSTIS Agreement.	
New Hampshire	NO SALES TAX			
New Jersey				
New Mexico	HB 891 introduced by Rep. Taylor		Legislation conforms local sales taxes to SSTIS Agreement.	
New York	S. 2850 introduced by Sens. Saland, Bruno and Spano	SB 2850 approved by Senate on 03/11/03; the language of SB 2850 included in 2004 budget bill and approved by the House on 05/02/03; sent to Gov. Pataki for consideration.	Legislation would make the state a member of the SSTIS.	

North Carolina	SB 99 introduced by Sen. Kerr; HB 44 introduced by Rep. Luebke.		Legislation would make changes to state's statutes to bring state into full compliance with the SSTIS Agreement. North Carolina enacted legislation in 2002 to adopt most of the provisions of the SSTIS Agreement.	
North Dakota	SB 2095 and SB 2096 introduced on 01/07/03 by Sen. Cook.	SB 2095 and SB 2096 signed by Gov. Hoeven on 04/08/03.	Legislation would bring state's laws into compliance with the SSTIS Agreement.	December 31, 2005
Ohio				
Oklahoma	HB1712 introduced on 02/04/03 by Rep. Pope; SB 708 introduced by Sen. Monson on 02/04/03.	HB1712 approved by the House on 03/13/03; SB 708 approved by the House on 04/01/2003; legislation pending before a Conference Committee.	Legislation permits the state's tax commission to enter into the SSTIS Agreement and to promulgate the required changes in state statutes in order to bring the state into compliance with the SSTIS Agreement.	July 1, 2003
Oregon	NO SALES TAX HB 3500 and HB 3608 introduced by Rep. Hansen and Revenue Committee.	Hearing held on HB 3500 on 04/11/03.	Legislation would establish a sales tax system and bring the state into compliance with the SSTIS Agreement.	
Pennsylvania				
Rhode Island				
South Carolina				
South Dakota	SB 76 introduced on 01/24/03 by the Committee on State Affairs	SB 76 signed into law by Gov. Rounds on 03/06/03.	Legislation brings the state into compliance with the terms of the SSTIS Agreement.	January 1, 2004
Tennessee	SB899 introduced by Sen. Clabough; HB 823 introduced by Rep. Head		Legislation brings state into compliance with SSTIS Agreement.	

Texas	SB 823 introduced by Sens. Fraser and VandePutte; HB 3143 introduced by Rep. Wilson	SB 823 reported from Committee; placed on Senate calendar	Legislation would bring state into compliance with SSTIS Agreement.	
Utah	SB 147 introduced on 02/03/03 by Sen. Hillyard.	Gov. Leavitt signed SB 147 into law on 03/24/03.	Legislation would bring state into compliance with the SSTIS Agreement.	January 1, 2004
Vermont	HB 480 introduced and referred to Appropriations Committee.	HB 480 approved by the House on 05/02/03 as a part of the education finance bill.	Legislation would bring state into compliance with the SSTIS Agreement.	
Virginia	SJR 347 introduced on 01/08/03 by Sen. Hanger and HJR 657 introduced on 01/08/03 by Rep. Watts.	SJR 347 referred to Senate Rules Committee; HJR 657 approved by the House Rules Committee on 01/28/03.	SJR 347 and HJR 657 would create a joint study committee to review the impact of the SSTIS Agreement to the State and make recommendations regarding whether the state should conform its laws to the Agreement.	
Washington	SB 5783 introduced by Sen. Finkbeiner on 02/12/03; HB 1863 introduced by Rep. Gombosky on 02/12/03.	Legislation signed into law by Gov. Locke on 05/12/03.	Legislation bring majority of state's statutes into compliance with the Agreement.	
West Virginia	HB 3014	HB 3014 signed into law by Gov. Wise on 03/14/03.	Legislation authorizes the Revenue Commissioner to enter the state into the Agreement and make any changes to the state's statutes to conform to the Agreement.	January 1, 2004
Wisconsin				
Wyoming		Wyoming enacted legislation in 2002 to bring the state into compliance with the SSTIS.		

ALASKA TRAVEL INDUSTRY ASSOCIATION

**ADD A NEW SECTION TO PROPOSED
AS 43.44 (CS FOR HOUSE BILL NO. 293, STATE SALES TAX):**

Sec. 43.44.____. Disposition of sales tax proceeds from sales of tourism related goods and services. (a) The Department of Revenue shall, in consultation with the Commissioner of Community and Economic Development, annually estimate the total amount of sales tax revenues generated during the prior fiscal year under AS 43.44.010 from the sale of tourism related goods and services. On October 30 of each year, the Department of Revenue shall report the tourism sales tax revenues to the Dept. of Community & Economic Development and the qualified trade association and transfer the amount estimated under (b) and (c) of this section to the Department of Community & Economic Development.

(b) In estimating the total amount of sales tax revenues generated from the sale of tourism related goods and services for the types of tourism related goods and services described in (c)(1) through (5) of this section, the department shall use the most current United States Bureau of Census economic information listed for Alaska using the North American Industrial Classification System codes applicable to those types of businesses, adjusted annually to reflect changes in the Consumer Price Index for Anchorage. In estimating the total amount of sales tax revenues generated from the sale of goods and services described in (c)(6) and (7) of this section, the department shall use the most current visitor statistics, including secondary arrival statistics, resulting from research conducted by the division of tourism under AS 44.33.120 and research provided to the Office of Tourism by a qualified trade association as part of a contract entered into under AS 44.33.125.

(c) In this section, "tourism related goods and services" includes (1) scenic and sightseeing transportation services, whether provided on land or water or in the air, (2) passenger and recreational vehicle rentals, (3) hotel, motel and bed and breakfast services, (4) recreational and vacation camps and campgrounds rental, including recreational vehicle parks, (5) Alaska Marine Highway System transportation services, (6) Alaska Railroad passenger transportation and automobile transportation and towing services, (7) Alaska Native arts and crafts, (8) restaurant services provided by salmon bakes, and (9) goods sold by a retail shop that receives more than 75 percent of its gross receipts between May 1 and September 30.

(d) The legislature may annually appropriate to the Department of Commerce & Economic Development the total amount of sales tax revenues established in (b) and (c) of this section for the purpose of entering into a contract with a qualified trade association for tourism marketing under AS 44.33.125.

Scenario Six - Summary Table - Tourism Activity Tax: Revenue Projections

<u>Taxable Activity</u>	<u>Estimated Expenditures</u>	<u>1% Tax</u>	<u>1.5% Tax</u>	<u>2% Tax</u>
Scenic & Sightseeing Transportation - Land, Water, Other	\$217,107,760	\$2,171,078	\$3,256,616	\$4,342,155
Passenger Car & RV Rental	\$11,179,776	\$111,798	\$167,697	\$223,596
Hotels and Motels	\$373,485,250	\$3,734,853	\$5,602,279	\$7,469,705
Bed & Breakfast Inns	\$6,341,826	\$63,418	\$95,124	\$126,833
Recreational and Vacation Camps(except campgrounds)	\$32,737,713	\$327,377	\$491,066	\$654,754
Recreational Vehicle Parks and Campgrounds	\$5,725,858	\$57,259	\$85,888	\$114,517
Alaska Marine Highway Passenger Fares	\$38,700,000	\$387,000	\$580,500	\$774,000
Alaska Railroad Passenger Fares & Passenger Car Towing	\$14,000,000	\$140,000	\$210,000	\$280,000
Alaska Native Arts & Crafts	\$105,115,830	\$1,051,158	\$1,576,737	\$2,102,317
"Seasonal" Retail Shops (exclusive of Native Arts & Crafts)	\$117,400,000	\$1,174,000	\$1,761,000	\$2,348,000
<u>Salmon Bakes</u>	<u>\$2,500,000</u>	<u>\$25,000</u>	<u>\$37,500</u>	<u>\$50,000</u>
Total	\$924,293,813	\$9,242,938	\$13,864,407	\$18,485,876

3%

\$27 million

Visitor Expenditures by Cruise Ship, Cruisetour & Tour Visitors

<u>Land, Water & Other Scenic & Sightseeing Transportation</u>	<u>Estimated Expenditures</u>		<u>Total Cruise & Cruisetour Group (1) pax</u>	<u>Cruise & Cruisetour Group as a Percent of Total Tour</u>	<u>Total Tour Group 169,444 pax</u>
	<u>Sampled Cruise & Cruisetour Group</u>	<u>Sampled Group as a Percent*</u>			
<u>Cruise Ship Passengers</u>					
Shore Excursion Expenditures (cruise pax)	\$107,900,000	84%	\$128,452,381	100%	\$128,452,381
<u>Land Tour Passengers</u>					
Land Tours	\$11,600,000	84%	\$13,809,524	85%	\$16,246,499
Motorcoach transportation	\$25,100,000	84%	\$29,880,952	85%	\$35,154,062
Railroad transportation	\$22,200,000	84%	\$26,428,571	85%	\$31,092,437
<u>Attractions (2 major)</u>	<u>\$4,400,000</u>	<u>84%</u>	<u>\$5,238,095</u>	<u>85%</u>	<u>\$6,162,465</u>
Total of Land, Water & Other Scenic & Sightseeing Transportation			\$203,809,524	85%	\$217,107,843
Hotel Revenues	\$60,700,000	100%	\$60,700,000	85%	\$71,411,765
Retail Shop Expenditures (by tour pax)	\$9,800,000	84%	\$11,666,667	85%	\$13,725,490
Retail Shop Expenditures (by cruise pax)	\$86,900,000	84%	\$103,452,381	100%	\$103,452,381
Total Cruise-related land-side Visitor Expenditures			\$379,628,572		
Total Taxable Expenditures			\$924,293,813		
Cruise-related taxable expenditures as a percent of total taxable expenditures			41.1%		

* The sampled cruise group was calculated as 84% of all projected lower berths per port of call in Alaska 2003. Ports are the occasion where taxed expenditures may be made.

Sampled Cruiselines (84% of Total berths/ports)

Holland America
Princess
Royal Caribbenn
Radisson Seven Seas
Carnival
Celebrity
Crystal

Unsampled Cruiselines (16% of berths/ports)

American West Steamboat
Clipper Cruise Line
CruiseWest
Crystal Cruise
Hapag Lloyd
Hapag Lloyd
Japan Cruise Line
Lindblad Expeditions
Mitsui O.S.K.
Norwegian
Residensea
Society Expeditions
World Explorer

Sampled Tour Companies
(85% of tour org)

Holland America
Princess
Royal Celebrity Tours
Ship-n-shore
Grayline of Alaska
Alaska Sightseeing
Collette
Carnival (HAL)
Vantage
Holiday Travel Service

Unsampled Tour

Premier Alaska Tours
Alaska Travel & Tour
Alaska Wildland Tours
Knighly Tours
"All Other"

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Scenic & Sightseeing Transportation - Land, Water & Other	\$104,806,000	\$217,107,760	Consists of Cruise pax shore excursions, land tours, motor coach transportation, railroad transportation, and attractions. Included in this category are some revenues from air transportation which cannot be taxed. To this extent, the total amount of this category will be reduced.
487110	Land			
	This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation on land, such as sightseeing buses and trolleys, steam train excursions, and horse-drawn sightseeing rides. The services provided are usually local and involve same-day return to place of origin.			
	Buses, scenic and sightseeing operation			
	Cable car, land, scenic and sightseeing operation			
	Carriage, horse-drawn, operation			
	Cog railway, scenic and sightseeing, operation			
	Horse-drawn carriage operation			
	Monorail, scenic and sightseeing, operation			
	Railroad transportation, scenic and sightseeing			
	Railroad, scenic and sightseeing, operation			
	Railway transportation, scenic and sightseeing			
	Scenic and sightseeing excursions, land			
	Sightseeing bus operation			
	Sightseeing operation, human-drawn vehicle			
	Steam train excursions			
	Tour bus, scenic and sightseeing, operation			
	Tracked vehicle sightseeing operation			
	Trolley, scenic and sightseeing, operation			
487210	Water			
	This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation on water. The services provided are usually local and involve same-day return to place of origin.			

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Airboat (i.e., swamp buggy) operation			
	Boat, fishing charter, operation			
	Charter fishing boat operation			
	Dinner cruises			
	Excursion boat operation			
	Fishing boat charter operation			
	Harbor sightseeing tours			
	Hovercraft sightseeing operation			
	Scenic and sightseeing excursions, water			
	Sightseeing boat operation			
	Swamp buggy operation			
	Whale watching excursions			
487990	Other			
	This industry comprises establishments primarily engaged in providing scenic and sightseeing transportation (except on land and water). The services provided are usually local and involve same-day return to place of departure.			
	Aerial cable car, scenic and sightseeing, operation			
	Aerial tramway, scenic and sightseeing, operation			
	Glider excursions			
	Helicopter ride, scenic and sightseeing, operation			
	Hot air balloon ride, scenic and sightseeing, operation			
	Scenic and sightseeing excursions, aerial			
	Tramway, aerial, scenic and sightseeing operation			
532111	Passenger Car and RV Rental		\$11,179,776	
	This industry comprises establishments primarily engaged in renting passenger cars without drivers, generally for short periods of time.			2002 estimated expenditures calculated as follows: 176 State registered rental car establishments. 72 Anchorage -based rental car establishments - \$5,589,888 in estimated expenditures based on 8% tax revenues of \$447,191 in 2002. Assume Anchorage has 50% of state rental sales.
	Automobile rental			
	Car rental			
	Car rental agencies			

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Limousine rental without driver			
	Luxury automobile rental			
	Passenger car rental			
	Passenger van rental			
	Passenger van rental agencies			
	Sport utility vehicle rental			
	Van (passenger) rental			
	Recreational Vehicles			
	Hotels and Motels		\$373,485,250	Expenditures include room rents only. Food & Beverage and other service charges not included.
721110	This industry comprises establishments primarily engaged in providing short-term lodging in facilities known as hotels, motor hotels, resort hotels, and motels. The establishments in this industry may offer food and beverage services, recreational services, conference rooms and convention services, laundry services, parking, and other services			Estimated 17,875 rooms (hotels, motels, resorts, lodges) Annual 2002 occupancy = 62%. Effective room rate = \$92.33
	Alpine skiing facilities with accommodations (i.e., ski resort)			
	Auto courts, lodging			
	Automobile courts, lodging			
	Health spas (i.e., physical fitness facilities) with accommodations			
	Hotels			
	Hotels with golf courses, tennis courts, and/or other health facilities			
	Hotels, resort			
	Hotels, seasonal			
	Motels			
	Motor courts			
	Motor hotels			
	Motor inns			
	Motor lodges			
	Resort hotels			
	Seasonal hotels			
	Ski lodges and resorts with accommodations			

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Summer resort hotels Tourist Lodges			
721191	Bed & Breakfast Inns This U.S. industry comprises establishments primarily engaged in providing short-term lodging in facilities known as bed-and-breakfast inns. These establishments provide short-term lodging in private homes or small buildings converted for this purpose. Bed-and-breakfast inns are characterized by a highly personalized service and inclusion of a full breakfast in a room rate. Bed and breakfast inns. Inns, bed and breakfast	\$4,930,000	\$6,341,626	$4,930,000 \times 1.107 \times 1.162 = \$6,341,626$ The Alaska Bed & Breakfast Association has 200 members. They have no data on the number of B&Bs in the State, and the Licensing Category of the State includes many other types of establishments. The President of the Association has heard that there are as many as 2,000 in the State. This number seems excessive. Average room rate for Association members is \$95 per room per night. If this was the average rate for all B&Bs, then \$6.3 million equals 66,757 room nights. If there were actually 1,000 active B&Bs during the 120 day summer season, this would represent about one rented room every other day for each B&B.
721214	Recreational and Vacation Camps(except campgrounds) 130 listed establishments. This U.S. industry comprises establishments primarily engaged in operating overnight recreational camps, such as children's camps, family vacation camps, hunting and fishing camps, and outdoor adventure retreats that offer trail riding, white-water rafting, hiking, and similar activities. These establishments provide accommodation facilities, such as cabins and fixed campsites, and other amenities, such as food services, recreational facilities and equipment, and organized recreational activities. Boys' camps (except day, instructional) Camps (except day, instructional) Children's camps (except day, instructional) Dude ranches Fishing camps with accommodation facilities Girls' camps (except day, instructional) Guest ranches with accommodation facilities Hunting camps with accommodation facilities	\$31,813,000	\$32,737,713	The following are exempt from the tax: Boy's Camps, Camps, Children's Camps, Girl's Camps. Assume 20% of revenues are from exempt camps. $25,450,400 \times 1.107 \times 1.162 = \$32,737,713$

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Nudist camps with accommodation facilities Outdoor adventure retreats with accommodation facilities Recreational camps with accommodation facilities (except campgrounds) Summer camps (except day, instructional) Trail riding camps with accommodation facilities Vacation camps (except campgrounds, day instructional) Wilderness camps			
721211	Recreational Vehicle Parks and Campgrounds 28 listed establishments. This U.S. industry comprises establishments primarily engaged in operating sites to accommodate campers and their equipment, including tents, tent trailers, travel trailers, and RVs (recreational vehicles). These establishments may provide access to facilities, such as washrooms, laundry rooms, recreation halls and playgrounds, stores, and snack bars. Campgrounds (would compete with State/Federal campgrounds) Recreational vehicle parks RV (recreational vehicle) parks Travel trailer campsites	\$6,359,000	\$5,725,858	Campgrounds for tents only would be exempt. State and Federal campgrounds may be exempt from this tax. Assumes tent-only campgrounds account for 30%. $4,451,300 \times 1.107 \times 1.162 = \$5,725,858$
	Alaska Marine Highway Passenger Fares		\$38,700,000	Passenger Revenue information from AMHS. FY02 July '01-Sept. '01: \$11.6 mil. Oct '01-Dec '01: \$6.5. Jan '02-Mar '02: \$7.7 mil. Apr '02-Jun '02: \$12.3 mil. Summer Months May-Sept: \$21.2 mil. (54.7% of Annual) Winter Months Oct-Apr: \$17.5 mil. Annual Revenue:
	Alaska Railroad Passenger Fares & Passenger Tour Car Towing		\$14,000,000	Based on information from the Alaska Railroad

<u>NAICS Code</u>	<u>Type of Activity</u>	<u>1997 NAICS Expenditures</u>	<u>2001 Calculated Expenditures</u>	<u>Notes</u>
	Alaska Native Arts & Crafts		\$105,115,830	In order to calculate Alaska Native Arts & Crafts expenditures, we went back to the original diary entries and examined them for accuracy. Descriptions were brief, but a number of products were obviously not "Silver Hand" Alaska Native Arts & Crafts. These were removed, as well as one dramatically large expenditure in FWS which skewed the results. The results are as follows: Summer Expenditures = \$95,909,564 (down from \$110.5 million in AVSP IV) FWS Expenditures = \$9,206,274 (down from \$69 million in AVSP IV)
	Salmon Bakes		\$2,500,000	1993 Summer AVSP Salmon Bake Numbers = 88,800. Increase in Summer visitors to 2001 = 39.6%. Consumer Price Index from 1993 (Anchorage) = 116.2. 2001 equivalent Salmon Bake Numbers = 123,964. Average Price estimated at \$25. 2001 Value = \$3,099,120. (a review of salmonbake establishments suggests that these numbers may be about 25% high) Using 100,000 as an estimate, the expenditures would be \$2.5 million
	Seasonal Retail Shops (Seasonal means retail shop receives more than 75% of its business between May 1 and Sept. 30)		\$117,400,000	This category is in addition to and exclusive of visitor expenditures on Alaska Native Arts and Crafts. Annual Retail expenditures are estimated at \$234.8 million. Assuming 50% of expenditures are in "seasonal" shops, the taxable amount is \$117,400,000.
	Total of all activities		\$924,293,813	

Sales Tax Poll Results

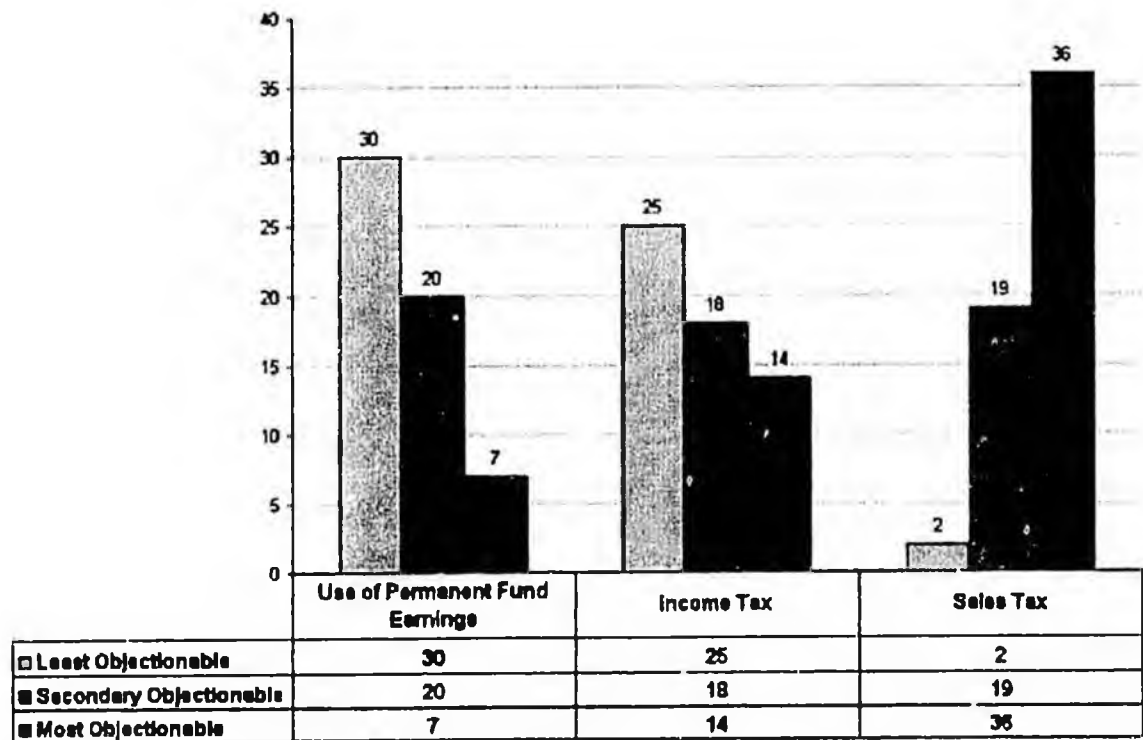
Poll Results - Updated 2:30 pm May 14th

Southeast Conference asked our members to weigh in on the recently proposed sales tax measure. We are still open to responses.

1. Are you in favor of or opposed to the proposed sales tax?

In Favor **8 members** Opposed **48 members**

2. Please rank the following fiscal solutions from the least objectionable (#1) to the most objectionable (#3). If you had to accept some form of tax, which would you prefer?



Replaced

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB293(W&M)
() Publish Date: _____

Revision Date/Time (Note if correction): _____
Title State Sales Tax and Use Tax
Sponsor House Ways and Means Committee
Requester House Finance Committee

Dept. Affected: Revenue
BRU Revenue Operations
Component Tax Division
Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY2008	FY 2009
Personal Services	2,496.4	3,881.5	3,881.5	3,881.5	3,881.5	3,881.5
Travel	85.0	75.0	75.0	75.0	75.0	75.0
Contractual	889.5	995.0	995.0	995.0	995.0	995.0
Supplies	76.3	92.0	92.0	92.0	92.0	92.0
Equipment	525.0	67.5	15.0	15.0	15.0	15.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,072.2	5,111.0	5,058.5	5,058.5	5,058.5	5,058.5

CAPITAL EXPENDITURES	1,900.0	400.0				
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CHANGE IN REVENUES ()	190,000.0	410,000.0	410,000.0	410,000.0	410,000.0	410,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5

Estimate of any current year (FY2003) cost: 150.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	67	74	74	74	74	74
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would put into effect a 3% state sales and use tax effective Jan. 1, 2004.

This legislation also includes an increase in the state excise tax on highway motor fuel, from 8 cents a gallon to 20 ¢s a gallon, effective July 1, 2003.

The estimated revenue for the House Ways and Means Committee Substitute is significantly higher than for the original bill because of 1) further analysis of the limited number of exemptions under the bill, 2) inclusion of the highway motor fuel tax increase in the bill, and 3) clarification that tangible personal property purchased for oil and gas and mining exploration, development and production activities would be subject to the sales and use tax.

See Page 2 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried
Division Tax Division
Approved by: Larry Persly, Deputy Commissioner
Agency Department of Revenue

Phone 465-5469
Date/Time 5/12/03 9:58 PM
Date 5/12/2003

This legislation would:

- Increase the state's highway motor fuel tax rate from 8 cents a gallon to 20 cents a gallon, and eliminate the special rate for gasohol (motor fuel blended with alcohol), thereby taxing gasohol at the same 20 cents as all other highway motor fuel. The rate increase would take effect July 1, 2003. This legislation would not affect marine fuel, aviation gas or jet fuel taxes, and would not change the tax on off-road motor fuel (which would remain at 2 cents per gallon).
- Direct that the Legislature may appropriate 6 cents a gallon of the 12-cents-a-gallon highway motor fuel tax increase to municipalities, through the revenue-sharing formula at AS29.60.110.
- Impose a statewide sales and use tax of 3% on the sale and rents of tangible personal property and services. The tax would take effect Jan. 1, 2004.
- Set a cap on the combined state and municipal sales and use tax rate at 8%, but would allow municipalities — with a vote of the local electorate — to raise only the municipal sales and use tax rate to exceed the combined state/municipal cap.
- Provide that municipalities with a local sales and use tax in effect or approved as of April 1, 2003, may continue to receive the full amount due under the tax until Jan. 1, 2008, with the state to receive the amount remaining between the municipal rate and the 8% cap.
- The municipal share within the 8% cap would be limited to no more than 6% effective Jan. 1, 2008. Then, effective Jan. 1, 2010, municipalities would be limited to 5% within the 8% cap.
- Allow municipalities to collect and administer their own sales and use taxes for the first two years of the new state tax. Then, on Jan. 1, 2006, municipalities would need to start collecting their local sales and use tax under state rules. Then, on Jan. 1, 2008, the state would take over collection and administration of all municipal sales and use taxes.
- Require out-of-state vendors to collect the sales and use tax if the vendor is subject to the jurisdiction of the state under the U.S. Constitution.
- Limit the tax to \$5,000 of the purchase price of a motor vehicle, boat, plane or mobile home.
- Provide a mechanism for enforcement of the sales and use tax on the purchase of motor vehicles, including those purchased out of state and brought to Alaska: AS 28.10.021 would require that sales or use tax must have been paid to register a vehicle.
- Nothing in this measure would prevent municipalities from continuing existing or imposing new excise taxes on specific goods and services, such as a hotel bed tax or car rental tax.
- The state sales and use tax would sunset on Jan. 12, 2012.

This legislation would provide certain exemptions from the state sales and use tax:

- Sale for resale and sale or lease for subsequent lease.
- Ingredients or components used in manufacturing.
- Sales to federal, state and local government agencies.
- Sales to or by IRS-approved 501(c)(3) nonprofit organizations.
- Sales/services by licensed health-care providers, prescription drugs, child-care services.
- Purchases with food stamps.
- Wages, insurance premiums, dividends and interest.
- Isolated or occasional sales.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSHB293(FIN)
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title State Sales Tax and Use Tax BRU Revenue Operations
 Component Tax Division
 Sponsor House Ways and Means Committee
 Requester House Finance Committee Component No. 2476

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY2008	FY 2009
Personal Services	2,496.4	3,881.5	3,881.5	3,881.5	3,881.5	3,881.5
Travel	85.0	75.0	75.0	75.0	75.0	75.0
Contractual	889.5	995.0	995.0	995.0	995.0	995.0
Supplies	76.3	92.0	92.0	92.0	92.0	92.0
Equipment	525.0	67.5	15.0	15.0	15.0	15.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	4,072.2	5,111.0	5,058.5	5,058.5	5,058.5	5,058.5

CAPITAL EXPENDITURES	1,900.0	400.0				
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CHANGE IN REVENUES ()	180,000.0	380,000.0	380,000.0	380,000.0	380,000.0	380,000.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	5,972.2	5,511.0	5,058.5	5,058.5	5,058.5	5,058.5

Estimate of any current year (FY2003) cost: 150.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	67	74	74	74	74	74
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This legislation would put into effect a 3% state sales and use tax effective Jan. 1, 2004.
 This legislation also includes an increase in the state excise tax on highway motor fuel, from 8 cents a gallon to 20 cents a gallon, effective July 1, 2003, with a provision that the legislature may share with municipalities half of the increase (using the revenue sharing formula in statute).

 See Page 2 for further discussion.

Prepared by: Chuck Harlamert, Robynn Wilson and Brett Fried Phone 465-5469
 Division Tax Division Date/Time 5/15/03 3:14 PM
 Approved by: Larry Persily, Deputy Commissioner Date 5/15/2003
 Agency Department of Revenue

This legislation would:

- Increase the state's highway motor fuel tax rate from 8 cents a gallon to 20 cents a gallon. The rate increase would take effect July 1, 2003. This legislation would not affect marine fuel, aviation gas or jet fuel taxes, and would not change the tax on off-road motor fuel (which would remain at 2 cents per gallon).
- Direct that the Legislature may appropriate 6 cents a gallon of the 12-cents-a-gallon highway motor fuel tax increase to municipalities, through the revenue-sharing formula at AS29.60.110.
- Impose a statewide sales and use tax of 3% on the sale and rents of tangible personal property and services. The tax would take effect Jan. 1, 2004.
- Set a cap on the combined state and municipal sales and use tax rate at 8%, but would allow municipalities — as per their charter or ordinance — to raise the municipal sales and use tax rate to exceed the combined state/municipal cap.
- Provide that municipalities with a local sales and use tax in effect or approved as of April 1, 2003, may continue to receive the full amount due under the tax until Jan. 1, 2008, with the state to receive the amount remaining between the municipal rate and the 8% cap.
- The municipal share within the 8% cap would be limited to no more than 6% effective Jan. 1, 2008. Then, effective Jan. 1, 2010, municipalities would be limited to 5% within the 8% cap.
- Allow municipalities to collect and administer their own sales and use taxes for the first two years of the new state tax. Then, on Jan. 1, 2006, municipalities would need to start collecting their local sales and use tax under state rules. Then, on Jan. 1, 2008, the state would take over collection and administration of all municipal sales and use taxes.
- Require out-of-state vendors to collect the sales and use tax if the vendor is subject to the jurisdiction of the state under the U.S. Constitution.
- Limit the tax to \$5,000 of the purchase price of a motor vehicle, boat, plane or mobile home.
- Provide a mechanism for enforcement of the sales and use tax on the purchase of motor vehicles, including those purchased out of state and brought to Alaska: AS 28.10.021 would require that sales or use tax must have been paid to register a vehicle.
- Nothing in this measure would prevent municipalities from continuing existing or imposing new excise taxes on specific goods and services, such as a hotel bed tax or car rental tax.

This legislation would provide exemptions from the state sales and use tax, including:

- Sale for resale and sale or lease for subsequent lease.
- Goods and services, ingredients, components and transportation used in operations and maintenance in natural resource industries. Capital assets would be taxable.
- Sales to federal, state and local government agencies.
- Sales to or by IRS-approved 501(c)(3) nonprofit organizations.
- Sales/services by licensed health-care providers, prescription drugs, and health care services.
- Purchases with food stamps.
- Wages, insurance premiums, dividends and interest.
- Pull-tab, bingo and raffle sales.
- Isolated or occasional sales.

23-LS1064V
Kurtz
5/14/03

CS FOR HOUSE BILL NO. 293(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE SPECIAL COMMITTEE ON WAYS AND MEANS

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to a state sales and use tax; relating to taxes levied by cities and**
2 **boroughs; providing authority to the Department of Revenue to enter into the**
3 **Streamlined Sales and Use Tax Agreement; relating to the motor fuel tax; relating to the**
4 **definition of 'taxpayer'; and providing for an effective date."**

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

6 *** Section 1. AS 28.10.021(a) is amended to read:**

7 (a) The owner of a vehicle subject to registration shall apply for registration
8 under this chapter by properly completing the form prescribed by the commissioner
9 under AS 28.05.041. Before the issuance of a certificate of registration by the
10 department, the owner shall

11 (1) pay all registration fees and taxes required under this chapter,
12 [AND] federal heavy vehicle use taxes required under 26 U.S.C. 4481 (Internal
13 Revenue Code of 1954), and the sales or use tax levied under AS 43.44.010;

14 (2) unless the owner qualifies as a self-insurer under AS 28.20.400 or