

260

HJ

HJR

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-

SB

5

260

February 10, 1975

since they pose a less serious threat to the public and may be more difficult for the businessman to understand. Furthermore, in those instances where violation of these provisions is blatant and seriously injurious to the public, it may also constitute a violation of those provisions prohibiting restraints of trade and monopolies or be covered by the Unfair Trade Practices and Consumer Protection Act, AS 45.50.

Article 3 of the bill grants to the attorney general the power to compel production of documents and testimony prior to filing an action in court. Several states have enacted similar provisions. The federal government also has similar powers to compel production of documents but is not authorized to compel testimony. ~~A provision of this nature is desirable because detection of violations of the antitrust laws is often a difficult matter requiring review of numerous business transactions which have occurred over an extended period of time.~~

not in red

The theory behind Article 3 is to provide the attorney general with the power he needs, but also to provide detailed procedural controls which will prevent unfair and arbitrary action by the attorney general. Section 210 of the bill prescribes the contents of a demand and establishes limits on the breadth and scope of the demand. Section 210(f) grants to any person upon whom a demand has been served the right to petition the court for relief from any demand if it exceeds the statutory standards and also gives that person the right to obtain a court order commanding the attorney general to perform any duty imposed upon him by Article 3.

Sincerely,

Jay S. Hammond
Governor

Need

- 1, 40 states have
- ~~2. No Action by Feds in Alaska~~
3. Protect Capitalism - (Economic System)
if no anti-trust to protect businessmen
then govt regulation to prevent abuses
of economic system
3. No Federal Action in state
 1. lack of jurisdiction
 2. inadequate fed staff
 1. We can provide advisory & surveillance
of activities to the Fed staff

"Monopoly by itself is not illegal"

Utilization of power to fix, control prices of
to eliminate competition

John L. Holt

- (1) Follows § 115. Form in Uniform Code
- (2) Exemption of Utilities, insurance - regulated industries
- (3) Can state enforce Clayton act provisions?
- (4) How valuable are trade dress provisions

example of shoe stores in small town

Apply only to

Sherman Act is general Policy statement)

controls by "private government"; control by

private individuals of economy - should be govt. function

If you have a monopoly even govt. will have to interfere with regulation

Monopoly nature of oil companies breed govt. regulation

Provisions for State Anti-Trust

- 1. not fed jurisdiction
- 2. inadequacy of fed. enforcement staff
- 3. Federal want state help

SS 5B5

Uniform State Anti-Trust laws

- 1. Gain advantages of Fed (e.g. laws definitions etc.)
- 2. Minimize application of Fed "Doctrine of Pre-emption"
- 3. Sherman Act was design to supplement

State laws

4. ~~Attorneys~~ Attorneys will have problem advising clients on no form Anti-Trust law; not very extensive adoption
SB 5 will actually cause more simplicity

020 020 - wording against "monopolize"

this language in Sherman Act

clear distinction "Monopoly by itself is not illegal"
in Fed court cases

Power to fix, control price - eliminate competition
have to utilize power - Predatory behavior

exercising ^{Monopoly} ~~Predatory~~ power in predatory manner

O Hertail - utilities interstate

Public utility used transmission monopoly (legal)
to influence Elbow Lake Utilities

030 A Inter Phasing with Regulatory Commission's
Different Issue Hogey + Spencer

040 040 - from FTC act
Is this in Consumer Protection Act
Was made for Commission enforcement not Judicial enforcement

050 Sect. 7 of Clayton Act
is useful + appropriate
Sometimes easier to enforce 050 before they
commit 020 + 030

060 Mergers foster Anti Competitive activity
sect 8 of Clayton - goes beyond Fed statute
Native Land Claims - if permits or requires by Fed
Statute then it pre-empto our anti-trust bill

070
Exemptions

1. Doctrine of "primary jurisdiction"

if an activity is ~~is~~ within scope of agency
is exempt.

Truckers Unlimited - use of protest power

explicit exemption on govt regulated activities
070 B (put exemption here)

Unitization in small fields have been held
to be "reasonable" restraints of trade

State unitization act exempts from anti-trust

divide unitization from operation + production
of field

unless such actions or arrangements occur
or are used ^{in a manner} clearly beyond the scope of such statutes

or processing or selling in markets other than
those in retail sales.

or delivering to processors for value.

Any Activity of a govt. regulated Corp that is required by law of regulation is exempt.

Anti-Trust

Andrew Hoge - Regulated industries

R, E, A, Co-operatives telephone; electric
Certificate public convenience + necessity

Rate Bureau - internal procedure
for setting rates

files them with ATC of ICC
Commission then can suspend
want to exempt the rate making process

ICC Act 5A + 5B exempt carriers
from Sherman + Clayton Acts

John Spencer

Can't conceive of any activity by utilities
that aren't regulated by Commissions



Bill Hopkins James Tingle San Francisco

drafted Uniform Bill - favors a bill

anti-trust Committee of ABA

1966 draft finished - National Conference on Uniform Laws¹⁹⁷²

Arizona adopted uniform act

5535 inact Sect 1 + Sect 2 of Sherman act
if parallel to Sherman Act - state courts
would have benefit of federal case law

040 way written citizen could receive damages
030 050 060 - from Clayton Act

Sherman act - applies to conduct
"unreasonable restraint of trade"

Clayton - reasonable prospects of such activity

Alaska or any other state could enforce
'Clayton Act' type restrictions

Flagrant violation should be only cases of
treble damages

Uniform Act has civil penalties - procedures
for bringing suit are less complex
Sherman Statute Act doesn't have criminal ~~sections~~

Treble damages is deterrent - also encourage suits
"private enforcement"

1. How

Need exemption for public utilities - Cartwright Act
in California has exemptions

If state orders such an action that are illegal
Courts have held that Sherman Act doesn't apply

60 - Any problem with native corp?
Are they exempted by Native Lands Claim Act.

Suggestion
from Ann

Automatic treble damages in per se cases

 willful & ~~flag~~ instead of flagrant

HJR

43

House Judiciary Committee
January 20, 1976

The meeting was called to order by Chairman Gardiner at 10:50 a.m. Members present were Brown, Cotten, Eliason, Parr and Gardiner.

Under discussion was HJR 43 regarding Traps by Mr. Swanson. Mr. Swanson stated that his position was that trapping is a renewable resource and a means of subsistence for many in Alaska. Alaska has very specific regulations regarding trapping and it is his feeling that trapping should be regulated by the state, not by Washington D.C.

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Mr. Brown suggested that an exemption be asked for, for not only Alaska, which is unconstitutional, but for any state with extensive regulations regarding trapping.

Testimony was received from Mr. A.W. Bud Boddy of the Territorial Sportsman and Alaska Wildlife Organization and Mr. Ray Meketa of the Juneau Gun Club and Juneau Rifle and Piston Club. They offered the attached resolution by the National Wildlife Foundation and amendments to HJR 43 as shown. It is their belief that asking congress for an exemption for Alaska will work more against us than for us, and that we would be better put to support congress in their efforts to stop legislation of the sort that would regulate trapping and gun control in the states.

Mr. Brown offered an amendment asking for exemptions for Alaska and other states which have sufficient trapping regulations.

Mr. Gardiner suggested that trapping in Alaska is a part of subsistence living, which is not necessarily true in other states. Mr. Brown then withdrew his amendment and offered a more substantial one which included exemptions for Alaska and mentioned that trapping is of a subsistence nature. The amendment is being incorporated in the form of a CS by Legislative Affairs. The CS passed out of committee.

The meeting was adjourned at 11:30.

1/20

1:50

HR 43 - Trap Swanson

Brown, Cohen, Eliason, Parr, Gardiner

① Swanson - trapping is a renewable resource.
the very means to protect Ak. trappers.

Don't want to be under jurisdiction of WSAOC

Crain - offered amendment:

pt. also offer "Alaska" and "and other states,
with extensive regulations on trapping"

Embarrassing to ask Congress to grant Ak
a favor which is unconstitutional

② Al. Bird Biddy - Territorial Sportsman Club Wildlife Club
Ray Mikola - Game Guard Little Pistol Club

Want trapping stopped.

Don't want Ak. asking for specific privileges

Offer amendment as attached:

Let them congress will exempt one or several
states Will therefore work against rather
than for us. We should support them
in their efforts to stop legislation of the sort

17 WA the regulation of trapping should be left to the States

Pass - let States regulate if they have
sufficient regulations

July 22 trapping is part of subsistence living.

Brown moved his amendment & asked that
it be included in CS

Bddy = trappers now will end trapping and income
of moose

Brown with previous am. offers new amendment
in form of CS & asked that it pass out of Com.

Adjourned 11:30

HJR

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MOUNT MCKINLEY

At the northern edge of the continent, close to the Arctic Circle, stands the highest mountain in North America. A massive monument to the forces of nature, Mount McKinley reigns over an immense wilderness park where Dall sheep, caribou, grizzly, lynx, moose, and wolf dwell together in a balanced natural system.

"The High One" of the Alaska Range

Small wonder that the Indians of Alaska called Mount McKinley *Denali*—"The High One." No other mountain in the world, not even in the Himalayas, rises so dramatically above its own base and stands in such lofty isolation over its neighbors. McKinley's summit, crowned by twin peaks, soars to an altitude of 6,194 meters (20,320 feet), rising 4,800 meters (16,000 feet) above the surrounding landscape.

McKinley is by far the most impressive feature of the Alaska Range, a curved chain of mountains that stretches 930 kilometers (580 miles) across the lower third of Alaska. Though most of the peaks are less than half McKinley's height, the range acts as a natural land barrier between Anchorage on the coastal lowlands and Alaska's interior to the north. West of the park the range forms a drainage divide for rivers flowing west to the Bering Sea or south to the Gulf of Alaska.

McKinley's geology features a portion of the Denali Fault System, the largest crustal break in North America, that stretches for 2,100 kilometers (1,300 miles), across the full width of the State of Alaska. Associated with the Alaska Range, the fault passes through the park, separating the most ancient rocks in Alaska from those of much younger age. Events that took place between these extremes have created a beautiful land with contrasting wide, low plains, and dark, somber mountains, brightly colored peaks, and sheer granite domes.

Surprisingly, much of Alaska north of the park never was covered by the last continental ice sheet, which retreated 10,000-14,000 years ago. The park lies at the northern limit of this ice age glaciation, which covered most of the northern hemisphere. From the park road you can see numerous ice flows still radiating from the high peaks of the Alaska Range, where extreme temperatures keep them from melting. The snout of Muldrow Glacier, 56 kilometers (35 miles) long, lies within 1 kilometer (about 0.6 mile) of the park road. Silt-laden streams that flow from these glaciers form wide gravel bars that serve as natural pathways into the wilderness.

A Land of Little Sticks and Tiny Flowers

Only plants that have adapted to long, bitterly cold winters can survive in this subarctic wilderness. Large areas of the park are locked in deep beds of permafrost—ground that has been frozen for thousands of years. Only a thin layer of topsoil thaws each summer, enough to support life; and limited sun for most of the year stunts the growth of most plants and gives them little time for reproduction.

Taiga, "the land of little sticks," is a term of Russian origin that vividly describes the scant growth of trees near the Arctic Circle. Much of the *taiga* in the park lies in relatively narrow strips that follow the winding path of rivers through the park. Sometimes water-saturated surface soils slip downslope over the underlying permafrost and the *taiga* takes on the comic appearance of a "drunken forest."

White and black spruce are most common in the *taiga*, interspersed with quaking aspen, paper birch, and balsam poplar. Pure stands of deciduous trees occur along streamside gravel bars or where soils have been disturbed by fire and other causes. Frequently the woods are carpeted with a thick, springy mat of mosses and lichens. The more open areas are filled with shrubs such as dwarf birch, blueberry, and several species of willow.

Timberline, the limit of tree growth, occurs at about 823 meters (2,700 feet) in McKinley park, much lower in elevation than it does in warmer mountain regions to the south. On the wind-swept slopes above timberline, the *taiga* gives way to the *tundra*—a fascinating world of dwarfed shrubs and miniature wildflowers adapted to the short growing season and the thin crust of life-giving topsoil. The *tundra* habitat is of two main types, although there are many gradations between the two.

Moist tundra vegetation generally grows at the lower mountain elevations in flatter, poorly drained areas where glacial runoff, snowmelt, rain and ground thaw collect in many scattered ponds. *Moist tundra* varies in appearance and composition. In some areas tussocks of cottongrass and sedges grow. In other places, dwarfed shrubs, especially willows and birches, predominate.

Plants of the *dry tundra* live scattered among the barren rocks of the higher elevations, and upward to regions of perpetual ice. Here, the tiny plants of the highlands cling precariously to the ground, spreading outward like a mat, to soak up daylight. White flowered dryas, dwarf fireweed, moss campion, dwarf rhododendron, and forget-me-not—the Alaska State flower—all dot the rocky, well-drained landscape in a stunning display of delicate blossoms.

Wet (arctic) tundra, the type that grows on Alaska's north slope where an unbroken bed of permafrost prevents ground drainage, does not grow here, but a very similar type of vegetation can be found in the park.

Animals: The Challenge of Life in the North

McKinley's vast wilderness permits a spectacular array of wildlife to live together in a balanced, natural system. Caribou still follow ancient migration patterns as they move in herds of hundreds or more over open tundra and through mountain passes. Sure-footed Dall sheep survey the rugged country from high, rocky slopes, while moose browse below in willow thickets near the spruce forest. In fall or early winter, all three species enter the rut, and the mature males engage in energy-draining battles for the right to breed with adult females.

Wolves roam huge territories in search of weakened caribou, moose, or sheep that may provide their next meal. Ravens, magpies, and gray jays quickly clean up any scraps left over from a kill. The grizzly bear will feed on any carcass it comes across during its ambles along a river bar or over the open tundra, but its dietary staples are grass, roots, blueberries, peavine, and ground squirrels that it digs from their burrows.

Beavers cut trees and build dams and lodges. The red squirrel caches spruce cones for the winter. The pika and singing vole carefully lay vegetation in loose piles in the underground nests to which they will retreat once the snow flies. Marsh hawks and short-eared



Administration

Mount McKinley National Park is administered by the National Park Service, U.S. Department of the Interior. As the Nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally owned public lands and natural resources. This includes fostering the wisest use of our land and water resources, protecting our fish and wildlife, preserving the environmental and cultural values of our national parks and historical places, and providing for the enjoyment of life through outdoor recreation. The Department assesses our energy and mineral resources and works to assure that their development is in the best interests of all our people. The Department also has a major responsibility for American Indian reservation communities and for people who live in Island Territories under U.S. administration.

National Park Service
U.S. DEPARTMENT OF THE INTERIOR

owls swoop low over the tundra in pursuit of voles, ground squirrels, and small birds. The golden eagle soars high overhead looking for small-mammal prey. The lynx hunts the snowshoe hare, its year-round major source of food.

Winter brings severe challenges to subarctic communities. Temperatures become frigid, plant growth ceases, and food is scarce. Grizzly bears meet the problem by fattening up in summer and sleeping most of the winter. Occasionally a grizzly stirs from its deep slumber; but the ground squirrel, a true hibernator, stays curled up with its body functions at a virtual standstill. Beavers and red squirrels subsist on cached foods. The weasel, ptarmigan, and snowshoe hare turn white and continue their struggle for survival above ground under extreme conditions.

Most birds escape the northern winter by flying south. The long-tailed jaeger winters in Japan, the golden plover in Hawaii, the wheatear and arctic warbler in Asia. The arctic tern may travel all the way to Antarctica.

The fragile web of McKinley's interdependent wildlife includes 37 mammal species and 130 bird species. Extreme cold prevents most cold-blooded land vertebrates from living in the park; but one amphibian, the wood frog, makes its home here.



Snowy white is McKinley's abiding hue. It is there in bright patches of snow, where caribou find relief from pestering varble and nostril flies. In the winter, the ptarmigan dons a white coat to match the relentless snows. Then in summer, the bird disappears again into the tundra grasses, its camouflage reversed to brownish. Dall sheep, the only white wild sheep in the world, bound from ledge to ledge with incredible speed and agility. Among the many wildflowers that flourish in the tundra is the Narcissus-flowered Anemone, a small perennial with white-petaled blossoms at the ends of long hairy stems. Lying on the ground you can see a fascinating little world on a scale quite different from the massiveness of things as you hike toward white mountains far away.



Were the day clear I could see Mount McKinley from the window. As I picture in my mind its stupendous height, I compare it to our science. Many have assailed its flanks; some have proclaimed untruths about it; some have climbed by great effort well up the slopes; a very few, the best by natural selection, have reached the summit and there attained the broad vision denied those at lower altitudes. As for me, I am satisfied to have been able to traverse the great lowland to the base and to climb the foothills.

—Alfred Hulse Brooks

Clouds shroud McKinley, high above Wonder Lake.



Men and Mount McKinley

On January 24, 1897, with national attention focused on the Alaskan gold rush, a New York newspaper carried a startling story. The author, a gold prospector in Alaska, had traveled inland from Cook Inlet, there to discover a great mountain higher than any he had ever seen before. The experienced mountain man, William A. Dickey, was confident he had gazed upon the highest peak in North America.

... it compelled our unbounded admiration, Dickey wrote; ... never before had we seen anything to compare with this mountain.

Dickey's article would set others on a course northward, not for gold but to confirm the report of America's grand rival to Mount Everest. The mountain had long been known to Alaskan Indians by its name, Denali, "the great one." Soon most of the world would be calling it by the name Dickey gave it after he returned from the wilderness and heard of William McKinley's nomination to the presidency. It has been said, although some challenged the statement, that Dickey had been forced to travel with several "free silver men" and was reacting to their peevish arguments when he named the mountain after the 19th century's leading advocate of the gold standard.

A brief 20 years later, through the exploits of several energetic men, Mount McKinley would capture enough public admiration to be established as one of the nation's largest national parks. In 1902 Alfred H. Brooks and D. L. Raeburn of the U.S. Geological Survey studied the geology of the Alaska Range. Mount McKinley was placed on the map. And Brooks, for whom the Brooks Range in far north Alaska was named, became the first white man known to have set foot upon its slopes. The next year Dr. Frederick A. Cook contributed new geographic knowledge of the area by leading a daring trip completely around Mount McKinley.

Not long afterwards, Charles Sheldon, a noted conservationist, arrived on McKinley's slopes to study Dall sheep and other wildlife. Sheldon was a member of the Boone and Crockett Club of New York, which began as a hunting organization and later had broadened its efforts to include wildlife conservation. The wilderness wonders displayed within sight of the mountain convinced him that the area should be protected, and Sheldon became the prime figure in efforts to make it a national park.

In 1910 a party of four Alaskan sourdoughs pioneered the Muldrow Glacier route up the mountain, and two, William Taylor and Pete Anderson, made it to the top of the lower north peak at 5,934 meters (19,470 feet). The south peak, the true summit, was finally conquered in 1913 by Archdeacon Hudson Stuck, Walter Harper, Robert G. Tatum, and Harry Karstens, who later served as superintendent of the park. Both teams used sled dogs on the first phases of their climbs.

Meanwhile Sheldon's promotion of the park idea in the Congress had attracted valuable allies who wanted to promote travel to Alaska. But it was the provision calling for the protection of McKinley's wildlife that eventually cleared the way for passage of the bill. The act creating Mount McKinley National Park was signed by President Wilson in February 1917.

KEEP PROTECT THE PARK AND YOURSELF

To preserve the park and to make your visit as safe as possible, please follow these regulations:

Hiking Permits. A back-country use permit for overnight camping must be obtained and then returned when the trip is complete. Permits are issued at the Visitor Orientation Center, Eielson Visitor Center, and at any ranger station during the summer season. In winter they must be obtained at park headquarters. A stove is recommended for backpacking; do not bury or leave behind any garbage or trash. Everything packed in must be packed out; litter in the back country destroys the wilderness values of the park for everyone.

Vehicles at Campsites. Only one vehicle is permitted at each registered campsite.

Safe Driving. The park road was built for scenic enjoyment and not for high speed. Maximum speed is 55 kilometers per hour (35 mph) and 40 kilometers (25 mph) for trucks and buses except where lower limits are posted. Fast driving is dangerous to you and the wildlife you have come to see.

Other Vehicles and Boats. Trail bikes and motorcycles must not leave the park road. Snowmobiles are permitted only along the shoulders of Alaska Highway 3 through the park. Off-road use of snowmobiles is prohibited. Motor-powered boats are not permitted on any park waters.

Natural Features. The park was established to protect a natural system. Destroying, defacing, or collecting plants, rocks, and other features is prohibited. Feeding, capturing, molesting, or killing any animal is prohibited.

Firewood. Use only down and dead wood. A gasoline stove is recommended because firewood is scarce.

Wildlife Protection Zones. The Sable Pass wildlife

protection zone is prime grizzly bear habitat and offers excellent opportunities to observe and photograph bears and other wildlife from the road. The zone is strictly off limits for hiking. Visitors who get out of their vehicles to view the animals must remain on the road. Other protection zones are established temporarily as the need arises. Check at the Visitor Orientation Center or any ranger station to learn the locations, and please do not enter.

Limits on Fishing. No fishing licenses are required. Limits for each person per day: lake trout (2 fish), grayling and other fish (10 fish or 10 pounds and 1 fish).

Hunting Prohibited. Firearms must be surrendered or made inoperative upon entering the park. The hunting ban is strictly enforced.

Controlling Pets. Pets and wildlife don't mix. Pets must be leashed or under restraint at all times. They are not permitted with you on trails or in the back country.

WRITING FOR INFORMATION

Further information on campground reservations, the park transportation system, and other details useful in planning your trip can be obtained by writing to: Superintendent, Mount McKinley National Park, P.O. Box 9, McKinley Park, AK 99755. A National Park Service information office is located at 334 West Fifth Ave., Suite 250, Anchorage, AK 99501.

A price list of maps and booklets about park animals, plants, geology, and hiking may be obtained by writing to the Alaska National Parks and Monuments Association, McKinley Park, AK 99755.

We're Joining the Metric World

The National Park Service is introducing metric measurements in its publications to help Americans become acquainted with the metric system and to make interpretation more meaningful for park visitors from other nations.



A healthy moose can stand off a pack of wolves with its powerful front legs.

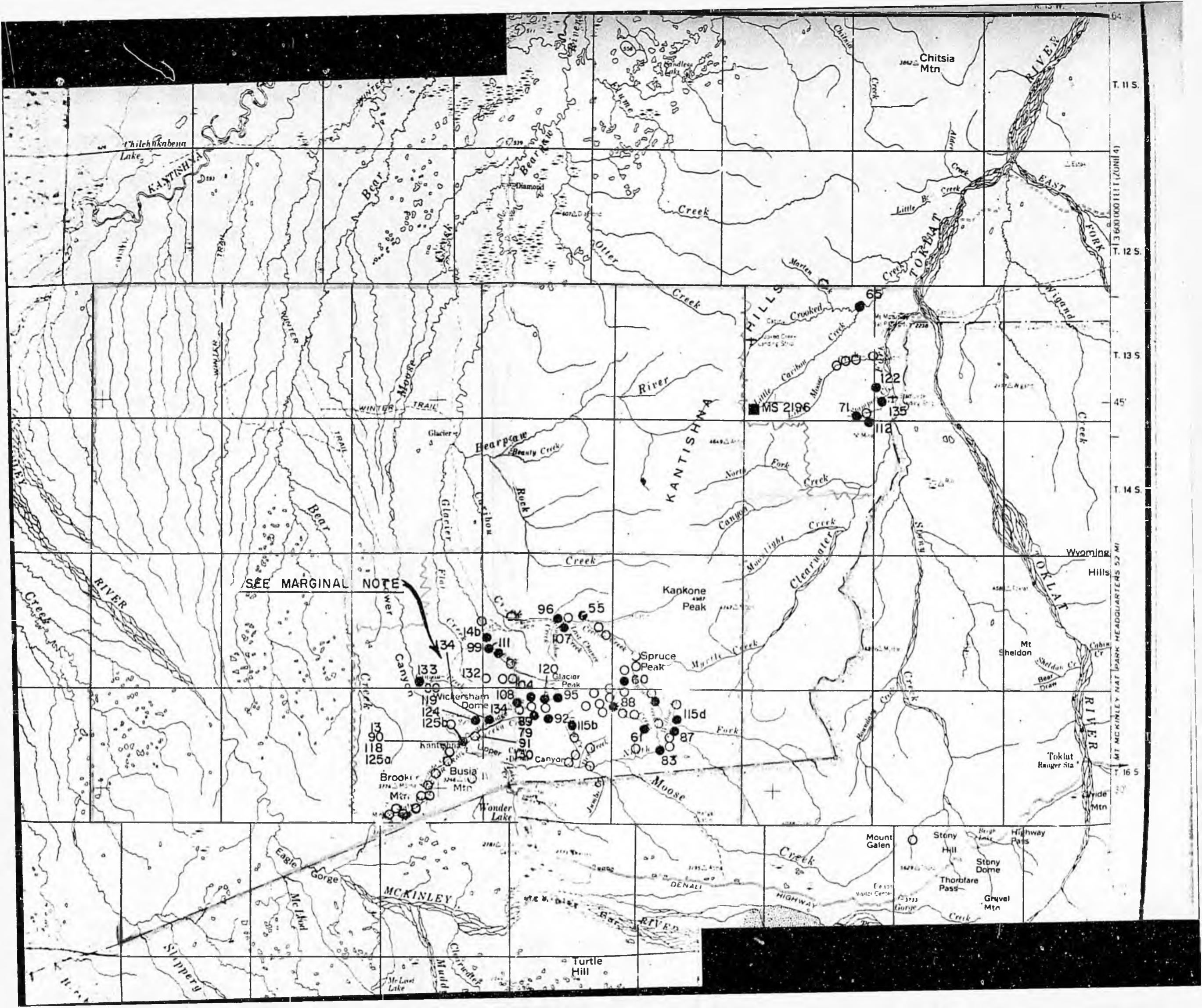
ANIMALS: KEEP YOUR DISTANCE

Bear, moose, and other wild animals are unpredictable and potentially dangerous. They are always dangerous when protecting themselves, their young, and their territories. Take the following precautions:

- Make noise when you hike. Bears are especially dangerous when surprised. By announcing your presence and letting bears know where you are, you give them a chance to retreat.

- Do not walk toward bears, moose, or any animals. They think you mean harm.
- Never try to feed any wild animal.
- Photograph wild animals using a telephoto lens. Trying to get close because you don't have enough lens power will only disturb the animal and endanger yourself.
- Keep your campsite and your equipment clean. All food should be sealed in containers so odors will not attract any animals.

MAP ON REVERSE
OF PROCEEDING
DOCUMENT
NOT
FILMED



SEE MARGINAL NOTE



T. 11.5
T. 12.5
T. 13.5
45'
T. 14.5
Wyoming Hills
52 MI
T. 16.5

Richard Snodney
Abuse Judiciary Committee

ENCLOSED IS A MAP SHOWING "LEGACY"
LOCATED MAINTAINED "CLAIMS" (BLACK CIRCLES)
AND "NO LONGER MAINTAINED" CLAIMS (OPEN CIRCLES)
IN THE KONTISVA AND SUMMERS AREA
NORTH OF MOUNT McCLINTOCK MARI PARK.

THE BLUE LINE REPRESENTS THE BOUNDARY
THAT YOU DESCRIBED ABE THE ABOVE.
AS YOU CAN SEE IT MORE THAN
ENCOMPASSES THE APPARENT MINERALIZED
AREAS.

AL HENSON
Abuse Task Force
Northern Park Service

HJR

45

COMMITTEE REPORT

1/16/76

HOUSE

Mr. Speaker:

Date Feb. 17 1976

The Committee on JUDICIARY has had HJR 45

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HJR 45 AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ Chairman

Delete all Line 21 through 23 and amend to read:

BE IT RESOLVED THAT the Alaska State Legislature, recognizing the subsistence needs of its citizens and in furtherance of its regulatory scheme, respectfully requests that Alaska and other States with comprehensive laws and regulations regarding the use of firearms be excluded from Federal legislation which would prohibit or limit the use of firearms, [leaving the regulation of firearms, exclusively to such States without restriction as to the possession or use of firearms.]

Adopted

HJR

73

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

POUCH K - STATE CAPITOL
JUNEAU 99811

May 11, 1976

The Honorable Jay S. Hammond
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: Constitutionality of
state's tuition grant
program

Dear Governor Hammond:

Since we issued our March 16, 1976 opinion which concluded that a proposal for the state to enter a contract for educational services with Alaska Methodist University was impermissible under the Alaska Constitution, considerable interest and discussion has been focused on the constitutionality of the state's tuition grant program, AS 14.40.776-14.40.801. Of special significance have been two carefully written and researched legal opinions directed at that precise issue and reaching opposite conclusions. The Legislative Affairs Agency has issued an opinion to the effect that the tuition grant program violates Article VII, Section 1 of our constitution. On the other hand, Ely, Guess & Rudd, a private firm representing Sheldon Jackson College, has concluded that the tuition grant program is valid under both our state constitution and the First Amendment to the United States Constitution. You have now

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asked that we provide you with our opinion on the matter, concurrently advising the Commissioner of Administration whether further payments of state funds for the tuition grant program would be consistent with our constitution.

BACKGROUND

The present tuition grant program was established by the legislature in 1972 to equalize tuition rates paid by students attending private postsecondary educational institutions in the state with those rates paid by students at the University of Alaska and state community colleges. The private colleges, as the result of increasing costs and decreasing endowments, had been required to raise their tuition rates to levels above those charged by the state-subsidized University of Alaska. Students were becoming unable or unwilling to pay the higher charges.

The tuition grant program was designed to help reverse or at least reduce this increasing cost/decreasing revenue trend by making available to each Alaska resident attending one of the private colleges in the state a grant equal to the difference between the tuition rate charged by the private college and that charged by the state institution located in the same city. By equalizing the tuition payments in this manner, it was hoped that cost would not be a factor in the student's decision of whether to attend one of the state's private or public institutions; that the decision of

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where to go to college would be made based on where he desired to go, not on where he could afford to go. The program has apparently been moderately successful. Alaska Methodist University, although now closing its doors, has been able to operate for the past several years in the face of constant financial difficulties. Sheldon Jackson College has recently enjoyed increasing enrollments and relative financial stability, receiving in excess of \$600,000 through the tuition grant program in the current school year. To date, these are the only two educational institutions which have benefited from the program.

DISCUSSION

The tuition grant program, like the direct loan program discussed in our earlier opinion, must be measured by two basic legal standards. First, it is necessary to analyze whether or not the Federal Constitution bars a program of this nature. Second, even assuming the program is valid from a federal Constitutional viewpoint, the Alaska Constitution must be considered separately, for, as we noted in our opinion, our constitution contains particular limitations on aid to education beyond those contained in the federal document.

In that earlier opinion which concerned the state contracting with A.M.U., we reviewed the various criteria applied by the courts in determining whether a program

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violated federal Constitutional restrictions. The key question in the analysis is whether an educational program violates the Establishment Clause of the First Amendment because a given educational institution of higher learning is "religious" in nature. 1/ The basic criteria for that analysis include whether the institution imposes religious restrictions on admissions, requires attendance at religious activities, requires instruction in and adherence to a particular theology or doctrine, requires that its personnel have a particular religious affiliation, adheres to a stated sectarian purpose, or is under direct control of a particular sectarian organization. 2 Under the federal Constitution, not all state aid to private colleges is barred. Only that aid which goes to institutions "in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission" 3/ is barred by the

1/ The U.S. Supreme Court has now recognized a significant distinction between church-affiliated institutions at the elementary-secondary level and the postsecondary level which, in certain situations, will lead to the conclusion that state aid to church-related colleges is valid even though similar aid to parochial elementary-secondary schools would violate the Establishment Clause. *Tilton v. Richardson*, 403 U.S. 672 (1971), *Hunt v. McNair*, 413 U.S. 734 (1973).

2/ *Tilton, supra*, *Horace Mann League v. Board of Public Works*, 220 A.2d 51 (Maryland, 1966), and *Weiss v. Bruno*, 509 P.2d 973 (1973).

3/ *Hunt, supra* at 743.

The Honorable Jay S. Hammond
May 11, 1976
Page Five

Establishment Clause. Stated another way, are the institution's "operations . . . oriented significantly towards sectarian rather than secular education"? 4/

The major benefactor of the tuition grant program, were it to continue, would be Sheldon Jackson College. There is, of course, an issue as to the religious nature of that institution. We have received certain information from the Legislative Affairs Agency and Ely, Guess & Rudd, counsel for the College, about the operations of that school. On the basis of those facts, which in light of our subsequent analysis there is no reason to challenge, we would be able to conclude that Sheldon Jackson is not an "instrument of the church for purposes of indoctrination or proselytizing." 5/ Therefore, were it not for our subsequent conclusion that the tuition grant program violates the Alaska Constitution, we would have little reluctance in concluding that state aid to Sheldon Jackson or other nonreligious schools in the form of tuition grants is valid.

However, Alaska's constitution does go beyond the federal prohibition to religious institutions, providing in

4/ Id. at 744.

5/ Americans United for Separation of Church and State v. Bubb, 379 F. Supp. 872, 880 (D. Kansas, 1974). This case, decided after the Tilton/Hunt distinction between secondary and higher education was acknowledged by the Supreme Court, upheld in a detailed and carefully reasoned opinion, the constitutionality of a Kansas tuition grant program quite similar to our own as it was applied to some 19 church-related colleges operating in the state.

Section 1 of Article VII that:

No money shall be paid from public funds for the direct benefit of any religious or other private educational institution.

Under this constitutional provision, the question of whether or not Sheldon Jackson or any other school is "religious" is basically irrelevant, for even if it is not, it is certainly a private educational institution. The relevant question under the Alaska Constitution is whether or not the tuition grant program constitutes a "direct benefit" to a private school. We believe that it does.

There are essentially two basic positions on the issue of when an institution is benefited by an expenditure of public funds. The first position, generally referred to as the "child benefit theory" 6/, approaches various state-supported programs which provide a benefit to an institution from the standpoint of whether the benefit is primarily to the institution or to the students of the institution. The alternative analysis looks beyond the child to determine whether or not the institution receives a benefit from the state program. 7/

6/ See, for example, the U. S. Supreme Court's opinion in Everson v. Board of Education, 330 U.S. 1, 7 (1947).

7/ See, for example, the dissenting opinion of four Justices in Everson, id.

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The Alaska Supreme Court has confronted the choice between these alternatives directly. In 1961, the Court in Matthews v. Quinton, 362 P.2d 932 (Alaska 1961), rejected the "child benefit theory," inquiring instead whether or not the state-supported program (in that case bussing of parochial school students) also provided a benefit to the private school. In holding that the furnishing of transportation to parochial school students at public expense did constitute such a direct benefit to the school, the Alaska Court in essence adopted the dissenting opinion of the United States Supreme Court decision in Everson v. Board of Education, 330 U.S. 1 (1947). In Everson, the majority had held such transportation to be consistent with the federal Constitution. The dissenters disagreed, and their views were found most persuasive by the Alaska Supreme Court. In holding transportation of students a direct benefit to the institution, the Alaska Court stated:

Payment of transportation is no more, nor is it any the less essential to education, whether religious or secular, than payment for tuitions, for teachers' salaries, for buildings, equipment and necessary materials. 8/ (emphasis added)

8/ Everson, id. at 47-49.

If the Alaska Court viewed bus transportation as a direct benefit to a private institution, it would follow that the state's tuition grant program, which provides partial payment of tuition to private institutions, would be an even more direct benefit to the private school. While under that program, the applicant for the grant is the student 9/ and the check is made payable to the student as well as the institution 10/, those facts are insufficient to alter the result, since the student, by law, is required to apply the grant to his tuition expenses. 11/ As we indicated in our earlier opinion concerning A.M.U., the Matthews opinion compels the conclusion that "any financial aid to a private institution such as AMU, whether provided directly or as an incidental effect from a student benefit program, would violate Section 1, Article VII of the Constitution."

Alaska is not alone in taking a "restrictive view" 12/ of its constitution's proscription against aid to private educational institutions. The highest courts of numerous other states have held various state programs, including

9/ AS 14.40.791 and 14.40.796

10/ AS 14.40.786(a)

11/ AS 14.40.776(a)

12/ Roberts v. State, 458 P.2d 340, 342, N.Y. (1969).

tuition grants 13/, bussing of parochial students 14/, furnishing of text books for parochial students 15/, and other forms of aid to private schools 16/ to be invalid under similar state constitutional provisions. Many of these decisions were rendered after the Alaska Supreme Court's decision in Matthews, and would, we believe, support that Court's adherence to its original view of what constitutes a "direct benefit" under Article VII, Section 1. Under that view, the tuition grant program would be invalid. 17/

13/ Rogers v. Swanson, 219 N.W.2d 726 (Nebraska, 1974); Weiss v. Bruno, 509 P.2d 973 (Washington, 1973); Klinger v. Howlett, 305 N.E. 2d 129 (Illinois, 1973); Miller v. Ayres, 191 S.E.2d 261 (Virginia, 1972); Hartness v. Patterson, 179 S.E.2d 907 (South Carolina, 1971); Almond v. Day, 89 S.E.2d 851 (Virginia, 1955).

14/ Epeldi v. Engelking, 488 P.2d 860 (Idaho, 1971); Spears v. Honda, 499 P.2d 130 (Hawaii, 1969); McVey v. Hawkins, 258 S.W.2d 927 (Missouri, 1953); Visser v. Nooksack Valley School District No. 506, 207 P.2d 198 (Washington, 1949).

15/ Gaffney v. State Department of Education, 220 N.W.2d 550 (Nebraska, 1974); Dickman v. School District No. 62C, Oregon City, 366 P.2d 533 (Oregon, 1961).

16/ Synod of Dakota v. State, 50 N.W. 632 (South Dakota, 1891) (contracting for services)..

17/ At least three of these cases, Spears, supra; Epeldi, supra; and Dickman, supra relied, in part, on the Alaska court's refusal, in Matthews, to adopt the "child benefit" theory.

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May 11, 1976
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We realize that our conclusion is not free from debate. It has, for instance, been argued that the Alaska Supreme Court's analysis of the meaning of the Alaska Constitution in the Matthews case was dicta since the basic resolution of the issue in that case was under the terms of the no longer existent Organic Act. Heavy reliance on that distinction, however, could be very misleading. The court in Matthews apparently felt that there was a real issue of whether a law authorizing bussing which was invalid under the Organic Act could be revived through a new and different state constitutional provision. Accordingly, the court specifically and comprehensively interpreted Article VII, Section 1 of the Alaska Constitution and its analysis on this point is obviously more significant than the often casual judicial remarks characterized as dicta. It has also been argued that the Matthews case cannot be relied on too heavily since it was decided by a three-judge court, none of whose members presently serve on the five-person Alaska Supreme Court. There is, of course, always the possibility of a newly constituted court changing a prior judicial decision on a subject. However, in this instance the reasoning of the Matthews case has been reinforced by decisions from other states discussed earlier, and we believe there is little chance of the court completely reversing itself on the issue. While our court has not been hesitant to break new ground, it does give credence to the doctrine of stare decisis and I think we must conclude in

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May 11, 1976
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the absence of indications to the contrary that it will honor its earlier interpretation of the constitutional provision. In any event, I feel that this office has an obligation to interpret the law as it has been announced by the Supreme Court, at least until that Court changes its interpretation.

It is therefore our conclusion that the present tuition grant program is in violation of the Alaska Constitution. In reaching that conclusion, we are not unmindful of the significant effect of the decision. Individual students who have enrolled in institutions dependent upon the tuition grant program may find their educational futures much in jeopardy. The very existence of Sheldon Jackson College may be at stake. We have real hesitancy in creating such enormous impact through the simple means of the issuance of an opinion of this office. Yet, the law requires that we issue legal opinions to state agencies, and if we conclude as we have that payment under the tuition grant program would be an unconstitutional expenditure of state funds, we see no choice but to advise the Commissioner of Administration to stop payment.

Mindful of the consequences of this opinion, we contacted the attorneys for Sheldon Jackson last week. I advised them that we were prepared to issue an opinion which would effectively terminate payments under the tuition grant

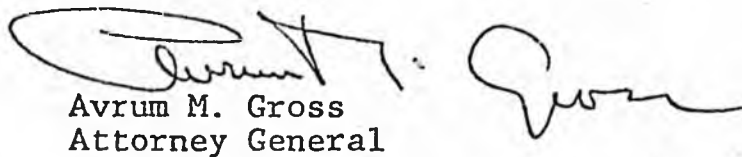
The Honorable Jay S. Hammond
May 11, 1976
Page Twelve

programs. I told them this so as to permit them the opportunity to mount a legal challenge to our ruling. I have been advised by the attorneys for Sheldon Jackson that within a day or two after the issuance of our opinion they will go into court here in Juneau seeking a declaratory judgment that the tuition grant program is constitutional and also seeking a restraining order and preliminary injunction to keep the program in operation until courts have had an opportunity to rule upon the question. At such time as they present a proposed restraining order to the court, a judge will have an opportunity to make at least an initial analysis of this program. If the judge believes that the plaintiffs have a reasonable prospect of prevailing on the merits, he will issue a restraining order directing the state to continue payments until this legal issue is resolved. If, on the other hand, the judge concludes not merely that our opinion is correct, but that the plaintiffs have no reasonable chance of proving it incorrect, he will refuse to issue a restraining order and no further state funds will be expended on the program. This procedure will mean that there will be a judicial review of our action directing the Commissioner of Administration to terminate this program. I frankly welcome that. I think on an issue of this significance, when so many people are involved and the amount of state expenditures is substantial, that while this office should not hesitate to carry out its obligations to interpret the

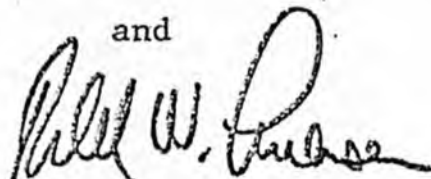
The Honorable Jay S. Hammond
May 11, 1976
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law, it should permit affected parties every opportunity to review the decision of this office in the proper judicial forum. We intend to continue our efforts in that regard, but, pending a judicial order, we are instructing the Commissioner of Administration to terminate all financial payments under the tuition grant program and to notify recipients that no further funds will be forthcoming.

Yours very truly,


Avrum M. Gross
Attorney General

and


Ronald W. Lorensen
Assistant Attorney General

AMG:as

cc: The Honorable Andrew S. Warwick
Commissioner of Administration

HCR

2

MEMORANDUM

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

POUCH Y — STATE CAPITOL
JUNEAU, ALASKA 99811

TO: Rep. Mike Miller

DATE: 27 February 1975

FROM: Stuart C. Hall, Legislative Counsel

SUBJECT: HCR 2 (Study of use of
election districts for
admin. and judicial
purposes)

Am advised that Mrs. Betty Price of Dept. of Health & Social Services (ext. 3310) has a set of maps, with acetate overlays, showing the plethora of districts now being employed in the state. You might find this useful in any presentation on HCR 2. I am even more persuaded now that we have before us both the Judicial Council's and the Supreme Court's judicial redistricting proposals that the kind of study urged in HCR 2 is absolutely imperative. I have taken the liberty of discussing this with Jack Chenoweth of Dept. of C&RA, and I take it he is in substantial agreement. He urges use of the old, original election districts as described in AK Const. art. XIV as the building blocks. He may be right, but even those might need adjustment; in any event, they belong in the statutes, not the constitution.

*Miller
Wants Price to present a booklet*

HCR

5

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

POUCH N — STATE CAPITOL
JUNEAU 99801

May 28, 1975

To Bradley
Gardner
Speaking

The Honorable Mike Bradner
Speaker of the House
Pouch V
Juneau, Alaska 99811

Dear Representative Bradner:

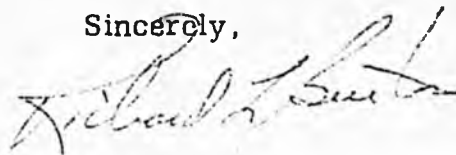
The proposed driver license classification regulations previously re-submitted to you 9 May 1975 incorporating amendments proposed by the Senate State Affairs Committee are currently being held on the Senate floor for additional amendment and clarification. The concerns of Senators Kertulla, Chance and Ferguson were expressed to our Traffic Laws consultant and have been hopefully satisfied. Therefore, we respectfully request that you either withdraw all previous submissions of these regulations and substitute the attached version thereof in their place, or offer the accompanying regulations as an alternative to the version approved by the House. Amendments and clarifications made are as follows:

- 1) The weight which an "A-1 vehicle" may tow is raised to 20,000 pounds; however, tandem trailer combinations are excluded from "A-1 vehicles," thus by being included under the "A-3" license; tandem trailer combinations are defined at the end of regulation Section 150;
- 2) "A-1" vehicles include common passenger cars, pick-up trucks, and motor homes, whether or not they are towing another vehicle, as provided. Concurrence has been obtained from Mr. Joe Hill of the Attorney General's Office and any alteration of wording may render the entire A-1 subclassification verbally cumbersome (i.e., the words "may tow" legally suffice and this Department is cognizant of this wording);

3) motorcyclists may either obtain one of the B-Class licenses or, in addition to an A-Class license, receive endorsement or additional classification to also operate B-Class vehicles; additional examination may be required as provided in regulations Section 150 (b).

We sincerely appreciate your cooperation and assistance in the legislative processing of these regulations.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Burton".

Richard L. Burton
Commissioner

CHAPTER 08. DRIVER LICENSING
AND SAFETY RESPONSIBILITY

ARTICLE 3. CLASSIFIED DRIVER'S LICENSES

Section

140. Unlawful Use of Classified License

150. Classes of Licenses

160. Medical Certification Required for Certain Licenses and Permits

13 AAC 08.140. UNLAWFUL USE OF CLASSIFIED LICENSE. It is unlawful for a holder of a classified driver license to operate a motor vehicle other than the type of motor vehicle which he is permitted to operate under sections 150-160 of this chapter according to the classification or endorsement on his license. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

13 AAC 08.150. CLASSES OF LICENSES. (a) An applicant for a classified license or for an endorsement to a classified license shall submit to an examination appropriate to the class of license or endorsement for which he is applying.

(b) The classifications of driver licenses and the vehicles which a holder of each class or subclass of license may operate are as follows:

(1) Class A license - Cars, buses, trucks, and towed vehicles. A person holding a Class "A" Driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

(A) A-1; All two or three-axle motor vehicles which vehicle may tow one other vehicle with a declared or actual gross laden weight of less than 20,000 pounds, excepting tandem trailer combinations as defined in (e) of this section; providing that the operation of vehicles with a Class A-1 license may be modified by the department by means of a permit;

(B) A-2; Buses and vehicles permitted under A-1;

(C) A-3; Motor-vehicles and towed vehicles exceeding the limits specified for subclassification A-1, and vehicles permitted under A-1;

(D) A-4; Any vehicles or combination of vehicles under Class A.

(2) Class B license - Motorized Cycles. A person holding a

Class "B" driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

(A) B-1; Motorcycles, Motor-driven Cycles, and Motorized Bicycles, single or in combination with trailers or side cars designed to be used with these vehicles;

(B) B-2; Motor-driven Cycles and Motorized Bicycles.

(c) School bus operator permits may be obtained as prescribed in AS 28.15.130 and Sec. 5-60 of this chapter.

(d) A holder of a classified license who wishes to change the classification of his license or to obtain an additional endorsement for another class of license, shall make an application for a change or endorsement and shall submit to an appropriate examination for the change or endorsement for which he is applying; however, the department in its discretion, will not require an applicant for a change or endorsement to submit to an examination for vehicles for which he has already qualified by his existing license. An applicant for a change in classification or an endorsement shall pay the fee set forth in AS 28.15.340 for an operator's license and renewal.

(e) As used in this section, "tandem trailer combination" means a combination of towing and towed vehicles in which the distance between the front and the rear most axles of the towed vehicle equals or is in excess of 10 feet; the term includes those vehicles commonly known as "compounds", "doubles", and "pups".
(Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

13 AAC 08.160. MEDICAL CERTIFICATION REQUIRED FOR CERTAIN LICENSES AND PERMITS. (a) In order to qualify for a Class A-2, Class A-3 or Class A-4 license, an applicant shall provide the department, at the time of application, with a medical certificate approved by the department or the United States Department of Transportation. The medical certificate shall have been issued within the two years prior to the date of application for Class A-2, A-3, or A-4 license and must be renewed every two years. A copy of each renewal of the medical certificate is filed with the department.

(b) Class A-2, Class A-3, and Class A-4 licenses are valid for operating Class A-2, A-3, and A-4 vehicles respectively only so long as a currently effective and approved medical certificate as prescribed in (a) of this section, that person may not operate Class A-2, A-3, or A-4 vehicles until a valid medical certificate is filed with the department.

(c) A requirement for a medical examination as a condition precedent to ob-

taining an operator's license or school bus driver's permit shall be satisfied if the applicant is the holder of a current and valid first - or second - class medical certificate issued under the federal aviation regulations and has passed any requirement of the Department of Education relating to tests for tuberculosis. (Eff. / /, Reg.)

Authority: AS 28.05.030
AS 28.15.070

JOURNAL
SUPPLEMENT

January 27, 1975

HOUSE

No. 3

"January 22, 1975

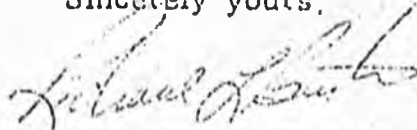
Honorable Mike Bradner
Speaker of the House
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Bradner:

AS 28.15.070 EXAMINATION OF APPLICANTS was amended during the second session of the Seventh Legislature to set forth the requirement for the issuance, by this Department, of a classified driver license to qualified applicants. This law provides that appropriate regulations be adopted and promulgated by the Department of Public Safety, but "before any such regulations are enforced, the same shall be submitted to and approved by the Legislature."

In accordance with this legislative mandate, the Department of Public Safety herewith submits for the review and approval by both Houses, its proposed regulations concerning the State's Classified Driver Licensing Program. Please call upon me or designated members of my staff to furnish testimony on these regulations as you may require.

Sincerely yours,



RICHARD L. BURTON
COMMISSIONER "

PUBLIC SAFETY

Register

13 AAC 08.140
13 AAC 08.150

CHAPTER 08. DRIVER LICENSING
AND SAFETY RESPONSIBILITY

ARTICLE 3. CLASSIFIED DRIVER'S LICENSES

Section

- 140. Unlawful Use of Classified License
- 150. Classes of Licenses
- 160. Medical Certificate for Class A and Class B Licenses
- 170. Waiver -- Certificate of Driving Experience

13 AAC 08.140. UNLAWFUL USE OF CLASSIFIED LICENSE. It is unlawful for a holder of a classified driver license to operate a motor vehicle other than the type of motor vehicle which he is permitted to operate under sections 150-180 of this chapter according to the classification or endorsement on his license. (Eff. / / , Reg.)

Authority: AS 28.05.030

Authority: AS 28.15.070

13 AAC 08.150. CLASSES OF LICENSES. (a) An applicant for a classified license or for an endorsement to a classified license shall submit to an examination appropriate to the class of license or endorsement for which he is applying.

(b) The classifications of driver licenses and the vehicles which a holder of each class or subclass of license may operate are as follows:

(1) Class A license - Cars, buses, trucks, and towed vehicles. A person holding a Class "A" driver's license may only operate the vehicles designated in one of the following subclassifications indicated upon his license:

(A) A-1: Passenger cars and two-axle trucks, excluding truck-tractors; which vehicles also may tow another vehicle with a declared gross laden weight of less than 5,000 pounds;

(B) A-2: Buses and vehicles permitted under A-1;

(C) A-3: Trucks with three or more axles, including truck-tractors, towed vehicles, and vehicles permitted under A-1;

(D) A-4: Any vehicles or combination of vehicles under Class A.

(2) Class B license - Motorized Cycles. A person holding a Class "B" driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

(A) B-1: Motorcycles, Motor-driven Cycles, and Motorized Bicycles, single or in combination with trailers or sidecars designed to be used with these vehicles;

(B) B-2: Motor-driven Cycles and Motorized Bicycles.

(c) School bus operator permits may be obtained as prescribed in AS 28.15.130 and Sec. 005-060 of this chapter.

(d) A holder of a classified license who wishes to change the classification of his license or to obtain an additional endorsement for another class of license, shall make an application for a change or endorsement and shall submit to an appropriate examination for the change or endorsement for which he is applying, except that the department in its discretion, will not require an applicant for a change or endorsement to submit to an examination for vehicles for which he has already qualified by his existing license. An applicant for a change in classification or an endorsement shall pay the fee set forth in AS 28.15.340 for an operator's license and renewal. (Eff. / / Reg.)

Authority: AS 28.05.030

AS 28.15.070

13 AAC 08.160. MEDICAL CERTIFICATION FOR CLASS A AND B LICENSES. (a) In order to qualify for a Class A-2, Class A-3, or Class A-4 license, an applicant shall provide the department, at the time of application, with a medical certificate approved by the department or the United States Department of Transportation. The medical certificate shall have been issued within the two years prior to the date of application for a Class A-2, A-3, or A-4 license and must be renewed every two years. A copy of each renewal of the medical certificate shall be filed with the department.

(b) Class A-2, Class A-3, and Class A-4 license are valid for operating Class A-2, A-3, and A-4 vehicles respectively only so long as a currently effective medical certificate approved by the department or by the United States Department of Transportation is on file with the department. If the medical certificate of a holder of a Class A-2, A-3, or A-4 license is revoked or is not renewed as required by (a) of this section, that person may not operate Class A-2, A-3, or A-4 vehicles until a valid medical certificate is filed with the department. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

13 AAC 08.170. WAIVER: CERTIFICATE OF DRIVING EXPERIENCE. (a) The department will, in its discretion, accept a certificate of driving experience in lieu of a driving test on Class A-2, Class A-3, or Class A-4 license applications when the certificate is issued by an employer of the applicant has first qualified for a Class A-1 license and has met the other examination requirements for the license for which he is applying. Certificates of driving experience shall be submitted on departmental forms furnished for this purpose and shall certify that the applicant is presently qualified to operate Class A-2, A-3, or A-4 vehicles as appropriate.

(b) When an applicant for a Class A-2, Class A-3, or Class A-4 license is self-employed and wishes to waive the driving test, he must furnish evidence acceptable to the department, of a minimum of one year's safe and competent driving experience in vehicles or combinations of that class for which he is applying. All such qualifying experience shall be upon the public highways.

(c) Certificates of driving experience will be accepted only at the discretion of the department and a complete examination will be required at the department's option.

(d) A holder of a Class A-1 license who cannot obtain a waiver or who cannot otherwise meet the requirements of this section may operate Class A-2, Class A-3, or Class A-4 vehicles only when accompanied by an operator properly licensed to operate the vehicle and who is occupying a seat beside the driver. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

DRIVER LICENSING LAWS ANNOTATED

1973

It is suggested this book be cited as DLLA § (1973)

NATIONAL COMMITTEE
ON
UNIFORM TRAFFIC LAWS AND ORDINANCES

Utah Code Ann. §§ 41-2-5, -33, -34, -35 (1970).
 Vt. Stat. Ann. tit. 23, §§ 603, 606, 607, 613, 632 (1967).
 Va. Code Ann. §§ 46.1-357, to -366 (1972, Supp. 1972).
 Wash. Rev. Code Ann. §§ 46.20.031, .070 (1970); § 46.20.100
 (Supp. 1972).

W. Va. Code Ann. § 17B-2-3 (Supp. 1972).
 Wis. Stat. Ann. §§ 343.06, .08, .09, .10(5), .125 (1958, Supp. 1971).
 Wyo. Stat. Ann. § 31-252 (1967); § 31-262 (Supp. 1971).
 32 D. C. Rules & Regs. §§ 2.203, .607, .608, .609 (1970).

§ 6-104—Classes of Licenses

(a) The department upon issuing a driver's license shall indicate thereon the type or general class of vehicles the licensee may drive.

(b) The department shall establish such qualifications as it believes reasonably necessary for the safe operation of the various types, sizes or combinations of vehicles and shall appropriately examine each applicant to determine his qualification according to the type or general class of license applied for.

(c) No person who is under the age of 21 years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons for compensation nor in either event until he has been licensed for either such purpose and the license so indicates. The department shall not issue a license for either such purpose unless the applicant has had at least one year of driving experience prior thereto and the department is fully satisfied as to the applicant's good character, competency and fitness to be so employed.

Historical Note

The 1926 edition of the Uniform Vehicle Code contained a provision similar to current subsection (c) imposing minimum age limits for the operation of a school bus or a "public passenger-carrying vehicle." This original provision imposed an 18-year minimum age for school bus operation and a 21-year minimum age for operation of a public passenger-carrying vehicle:

It shall be unlawful for any person, whether licensed under this act or not, who is under the age of eighteen years to drive a motor vehicle while in use as a school bus for the transportation of pupils to or from school or for any person, whether licensed under this act or not, who is under the age of twenty-one years to drive a motor vehicle while in use as a public passenger-carrying vehicle.

UVC Act III, § 6 (1926, 1930). In 1934, the minimum age limit for school bus operation was changed to 21, the same as for a "motor vehicle used as a public or common carrier of persons or property," a new classification replacing the 1926 Code provision's reference to "public passenger-carrying vehicle." Additionally, operators of these vehicles were required to procure a "special chauffeur's license." Qualifications for this "special chauffeur's license" included one year of driving experience and certification of good moral character by three responsible persons. The department was given authority to impose rules and regulations for the use of the special chauffeur's license and could deny such a license if not satisfied with the applicant's competency and fitness. The 1934 Code section provided as follows:

(a) No person who is under the age of 21 years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school, nor any motor

vehicle while in use as a public or common carrier of persons or property, nor in either event until he has been licensed as a chauffeur and received a special chauffeur's license.

(b) No person shall be granted a special chauffeur's license unless he has had 1 year of driving experience prior to the issuance thereof, nor until he files with the department a certificate showing his employment as such chauffeur and one or more certificates signed by a total of at least three responsible people to whom he is well known certifying as to his good character and habits.

(c) No such license shall be granted until the department is fully satisfied as to the applicant's competency and fitness to be so employed.

(d) The department may, in its discretion, impose such rules and regulations for the exercise of such special chauffeurs' licenses as it may deem necessary for the safety and welfare of the traveling public.

UVC Act II, § 10 (1934).

In 1938, the concept of the "special chauffeur's license" was deleted and replaced by a concept of classified chauffeurs' licenses. The chauffeur's license was to contain an indication of the class of license. The revised provision retained the special qualifications for the class or classes of chauffeur's license which would cover school bus operation and operation of "motor vehicles used for transportation of persons or property for compensation," a new phrase replacing the 1934 Code provision's reference to "public or common carriers of persons or property." With these revisions, the 1938 section provided as follows:

(a) The department upon issuing a chauffeur's license shall indicate thereon the class of license so issued and shall appropriately examine each applicant according to the class of license applied for and may impose such rules and regulations for the exercise thereof as it may deem necessary for the safety and welfare of the traveling public.

(b) No person who is under the age of 21 years shall drive any school bus transporting school children or any motor vehicle when in use for the transportation of persons or property for compensation nor in either event until he has been licensed as a chauffeur for either such purpose and the license so indicates. The department shall not issue a chauffeur's license for either such purpose unless the applicant has had at least 1 year of driving experience prior thereto and has filed with the department one or more certificates signed by a total of at least three responsible people to whom he is well known certifying as to his good character and habits and the department is fully satisfied as to the applicant's competency and fitness to be so employed.

UVC Act II, § 11 (1938). The provision remained unchanged until 1962. UVC Act II, § 11 (1944, 1948, 1952); UVC § 6-104 (1954, 1956).

In 1962, the requirement that the applicant submit certification of his good character from three responsible persons was deleted in favor of a more general requirement that the department must be satisfied as to the applicant's good character prior to issuing a license.

The section was revised to its present form in 1968. The operator-chauffeur distinction in driver licensing was deleted from the Code at that time and the concept of a classified license, formerly applicable only to chauffeurs' licenses, was applied to all drivers' licenses. Subsections (a) and (b) were then added to reflect that change. Subsection (c) was revised by deleting the references to chauffeurs and by making the special qualifications in that section no longer applicable to vehicles used for the transportation of property (as opposed to persons) for compensation.

Statutory Annotation

Subsection (a)

This Annotation covers state laws which provide for license classification or special licensing based upon factors of vehicle type (such as body style, size, number of wheels or axles, weight, etc.), or factors of vehicle use (such as use for the transportation of school children, farm use, use to transport persons or property for compensation, use as an authorized emergency vehicle, use to transport explosives, etc.), or a combination of such factors. All but two states have some kind of license classification based upon vehicle type or use although, as noted below, some of the laws contain only a limited recognition of the classified license concept. Unlike the Code, some of these states retain the operator-chauffeur distinction in licensing which is based upon the status of the driver—whether or not he is employed to drive. For a listing of the states which retain the operator-chauffeur distinction, see the Annotation at § 6-101(a) under the subheading "Valid Driver's License," *supra*.

Eight jurisdictions have laws which are in substantial conformity with subsection (a) by generally providing that all drivers' licenses issued must contain an indication of the type or general class of vehicles the licensee may drive. Each of these jurisdictions, however, has an additional provision relating to the issuance of one or more specific types or classes of license. The eight jurisdictions and their additional provisions are as follows:

Alaska—The law contains an additional provision relating to the issuance of a "school bus driver's permit."

Delaware—The law also contains express provisions relating to the issuance of a "school bus driver's license," a motorcycle license or endorsement, and a "taxicab driver's license."

Illinois—The law also contains a provision relating specifically to motorcycle licenses and endorsements.

Massachusetts—The law also provides for the issuance of "a license to be a school bus operator."

Nevada—The law contains provisions relating specifically to the licensing of persons to drive a motor vehicle when in use as a school bus or for the transportation of persons for compensation. A special set of laws provides for licensing to operate a motorcycle.

New Jersey—The law specifies that a "separate license shall be required to operate a motorcycle." Another law contains provisions relating to the issuance of a "special license" for the operation of:

[A]ny motor vehicle or trackless trolley with a capacity of more than 6 passengers and used for the transportation of passengers for hire, except taxicabs, hotel buses, and omnibusses used for the transportation of passengers in interstate or foreign commerce, or any bus used to transport children to and from school . . .

Washington—The law provides that no person shall operate any motor truck, truck-tractor, school bus, private carrier bus, "auto stage" or for-hire vehicle "found by the director to require special operating skills" unless he has successfully completed tests demonstrating his ability to operate such a vehicle. Upon completion of the test the driver's license of the person is endorsed to indicate the type of vehicle qualifications that have been met. Another law contains an additional provision relating to motorcycle endorsements.

District of Columbia—The law contains extensive provisions relating to school bus drivers' licenses and has a separate provision dealing with motorcycle permits.

Ten states have laws which are similar in effect to subsection (a), but these laws, instead of containing only a general directive to the department with respect to classifying licenses, expressly set forth a full classification system. The provisions in these 10 states are:

California—Section 12804(b) provides that vehicles and licenses are classified as follows:

Class 1. Any combination of vehicles and includes the operation of all vehicles under class 2 and class 3.

Class 2. Any bus, any "farm labor truck," any single vehicle with three or more axles, any such vehicles towing another vehicle weighing less than 6,000 pounds gross, and all vehicles covered under class 3, except that a person holding a valid class 3 license on the effective date of this act may drive a bus designed to carry not more than 15 passengers until such time as the license expires without obtaining a class 2 license.

Class 3. A three-axle housecar, any two-axle vehicle, and any such housecar or vehicle towing another vehicle weighing less than 6,000 pounds gross, except a bus, two-wheel motorcycle, or "farm labor truck."

Class 4. Any two-wheel motorcycle. Authority to operate vehicles included in a class 4 license may be granted by endorsement on a class 1, 2 or 3 license upon completion of appropriate examination. A person holding a valid class 1, class 2 or class 3 driver's license on the effective date of the amendments to this section enacted at the 1968 Regular Session of the Legislature may drive a motorcycle until such time as the license expires without obtaining a class 4 license or endorsement.

The law additionally provides that a class 1 or 2 driver's license shall be valid for operating class 1 or 2 vehicles only when the licensee has in his possession a valid medical certificate approved by the department or by the Federal Highway Administration of the United States Department of Transportation. Otherwise, the license is valid only for the operation of class 3 vehicles and, if so endorsed, class 4 vehicles. Another law prohibits the operation of a farm labor truck or a farm labor bus unless a person has in his possession an appropriately classified license with an endorsement or certificate attached to it which permits the operation of farm labor vehicles. Still another law provides that any person operating any piece of special construction equipment upon a highway, when its dimensions are such that special permission must be obtained prior to its movement, is required to hold an appropriately endorsed driver's license or have a special construction equipment certificate attached to his license.

Connecticut—The law provides that motor vehicle operators' licenses are classified and issued according to the types of vehicles which licensees are eligible to operate, as follows:

- (1) Class 1, any motor vehicle or combination of motor vehicle and trailer or semi-trailer;
- (2) class 2, any motor vehicle or combination of motor vehicle and trailer or semi-trailer, except a tractor semi-trailer combination or a truck trailer combination, and
- (3) class 3, any motor vehicle or combination of motor vehicle and trailer or semi-trailer, except a tractor semi-trailer combination, truck trailer combination or truck having a gross weight of more than eighteen thousand pounds.

Other laws specifically provide for the issuance of a "motorcycle operator's license" and a "public service license." A public service license is required before any driver holding a regular operator's license may operate a "public service motor vehicle" or a school bus.

Georgia—The law provides that no person shall operate any motor vehicle unless he has a valid license permitting the operation of such vehicle according to the following classifications:

Class 1—All motor vehicles not included within classes 2 through 5.

Class 2—Motorcycles.

Class 3—Motor vehicles 80 inches or wider, designed to carry more than 10 passengers and used as a common or contract carrier, and motor vehicles included within Class 1.

Class 4—Trucks licensed and registered for 24,000 pounds or more gross weight, and motor vehicles included within Class 1.

Class 5—Tractor-trailers and motor vehicles included within Classes 1 and 4.

Hawaii—The law provides that an operator of a motor vehicle must be duly licensed according to the following categories of motor vehicles:

- (1) Motor scooters;
- (2) Motorcycles and motor scooters;
- (3) Passenger cars of any gross weight and trucks having a registered gross weight of less than six thousand pounds;
- (4) All of the motor vehicles in category (3) and trucks having a registered gross weight of six thousand pounds or more, other than tractor-semitrailer combinations and truck-trailer combinations;
- (5) All of the motor vehicles in categories (3) and (4) and buses;
- (6) All of the motor vehicles in categories (3), (4), and (5) and tractor-semitrailer combinations; and
- (7) All of the motor vehicles in categories (3), (4), (5), and (6) and truck-trailer combinations.

Louisiana—The law provides that every motor vehicle operator shall secure an appropriately classified driver's license. The different classes of licenses to be issued are:

CLASS "A":

Permits the operation of all passenger vehicles and two-axle trucks, for personal use only, and vehicles of similar description towing trailers or other vehicles of not more than five thousand pounds gross weight. This class of license does not include the operation of motorcycles and motorscooters except as an endorsement to the basic license.

CLASS "B":

Permits the operation of all vehicles included in Class "A" and, in addition, permits the operation of two-axle vehicles designed to carry not more than fourteen passengers or the hauling of cargo for hire. This class of license does not include the operation of motorcycles and motorscooters except as an endorsement to the basic license.

CLASS "C":

Permits the operation of all vehicles included in Classes "A" and "B" and, in addition, permits the operation of any three-axle straight truck or any bus designed to carry fifteen or more passengers. A "straight truck" is defined for the purpose of this class as being one that does not bend or have movable joint in its frame between the driver's seat and the cargo compartment. This class of license does not include the operation of motorcycles and motorscooters except as an endorsement to the basic license.

CLASS "D":

Permits the operation of all vehicles included in Classes "A", "B", and "C" and, in addition, permits the operation of any vehicle or combination of vehicles with three or more axles, to include but not to be limited to semi-trailers, truck-trailers, and tractor-trailers, and any vehicle towing trailers or other vehicles of more than five thousand pounds gross weight. This class of license does not include the operation of motorcycles and motorscooters except as an endorsement to the basic license.

The law also provides that motorcycles, motorbikes, motorscooters and authorized emergency vehicles are not to be given a separate class as such but are to be included by an appropriate endorsement on one of the above classes. The law specifically provides that classes "B," "C" and "D" are chauffeurs' licenses and that all individuals driving vehicles in the course of their employer's business must have one of these classes.

Maryland—The law provides that every driver's license shall be clearly identified by class. The classes specified and the vehicles a licensee may operate under each class are as follows:

A Class A license shall authorize the licensee to drive combinations of vehicles and any vehicle which the holder of a Class B, C or D license may drive.

A Class B license shall authorize the licensee to drive vehicles of a gross weight of 20,000 pounds or more, and any vehicle which the holder of a Class C or D license may drive.

A Class C license authorizes the licensee to drive any bus and any vehicle which the holder of a Class D license may drive.

A Class D license shall authorize the licensee to drive any vehicle except (i) combinations of vehicles, (ii) trucks with a gross weight of more than 20,000 pounds, (iii) buses and (iv) motorcycles.

A Class E license shall authorize the licensee to drive motorcycles.

The law additionally provides that any Class A, B, C, or D license may also be endorsed as a Class E license. Another provision specifies that holders of Class B, C, or D licenses are entitled to operate an appropriate type of vehicle to which a trailer or semitrailer is attached.

Minnesota—The law provides that drivers' licenses are to be classified according to one of three general classes of vehicle types:

a. Class C; valid for all farm trucks as defined in section 168.011, subdivision 17, operated by the owner or an immediate member of his family or an employee not primarily employed for the purpose of operating the farm truck, and all single unit two axle vehicles not in excess of 24,000 pounds GVW including vehicles with a temporary auxiliary axle as defined in Minnesota Statutes, Section 169.67, Subdivision 4. Holder may also tow trailers under 10,000 pounds GVW including house trailers. Buses as defined under this chapter may not be driven by a holder of a Class C license.

b. Class B; valid for all vehicles in Class C and all other single unit vehicles including buses.

c. Class A; valid for any vehicle or combination thereof.

The commissioner may, as appropriate, subdivide the above classes and issue licenses classified accordingly. The law specifically provides that no class of license shall be valid to operate a motorcycle or school bus unless so endorsed. Another law provides that school bus drivers must hold a class B or A license with a school bus endorsement. Licensed persons without a school bus endorsement may drive a passenger automobile or station wagon used as a school bus for occasional trips.

New Hampshire—The law provides that all motor vehicle operators must be licensed as either an "operator" or "commercial operator." Another law provides that a "commercial operator's" license is required for the operation of a bus, light truck, heavy truck or tractor trailer as defined in RSA § 259:1, without regard to whether the use is for compensation, as part of employment, or private. With respect to these vehicles the law provides that

A license to operate a tractor-trailer shall authorize the operation of any motor vehicle registered in this state other than a school bus or a motorcycle; a license to operate a heavy truck shall authorize the operation of any motor vehicle registered in this state other than a tractor-trailer, school bus or motorcycle; a license to operate a light truck shall authorize the operation of any motor vehicle registered in this state other than a tractor-trailer, heavy truck, school bus or motorcycle. The provisions of this section shall not apply to the operation of a motor truck bearing agricultural or farm registration.

To operate a motorcycle, a "special motorcycle license" is required. Drivers of school buses must obtain a "special school bus operator's certificate."

New York—The law provides that licenses shall be valid only for the operation of the type of vehicles specified by the following classes:

Class 1. Such license shall be valid for the operation of any passenger vehicle, any taxicab, any truck, any tractor, any truck-trailer combination, or any tractor-trailer combination.

Class 2. Such license shall be valid for the operation of any bus.

Class 3. Such license shall be valid for the operation of any passenger vehicle, any taxicab, any truck or any tractor.

Class 4. Such license shall be valid for the operation of any passenger vehicle, any taxicab, or any truck having a maximum gross weight of eighteen thousand pounds or less.

Class 5. Such license shall be valid for the operation of any passenger vehicle or any truck having a maximum gross weight of eighteen thousand pounds or less.

Class 6. Such license shall be valid for the operation of any passenger vehicle or any truck having a maximum gross weight of eighteen thousand pounds or less by a person under eighteen years of age, subject to the restrictions contained in subdivision three-a of this section. Such license shall automatically become a class 5 license when the holder becomes eighteen years of age.

The law further provides that no license shall be valid for the operation of a motorcycle unless one of the above classes is so endorsed.

North Dakota—§ 39-06-14 provides that a classified license authorizes the holder to drive the vehicles set forth in such class as follows:

Class 1. Any vehicle or combination of vehicles except vehicles under class four.

Class 2. Any vehicle or combination of vehicles except:

a. Vehicles towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds; and

b. Vehicles under class four.

Class 3. Any two-axle or tandem-axle vehicle except:

a. A truck tractor combination as defined in subsection 70 of section 39-01-01;

b. A bus more than 80 inches in width and designed to carry more than ten persons and used for carrying passengers;

c. A two-axle or tandem-axle vehicle or combination of vehicles when towing a trailer when the trailer being towed has a gross weight in excess of six thousand pounds; and

d. Vehicles under class 4.

Provided, however, an operator with a class 3 license may operate a farm tractor towing another vehicle having a gross weight in excess of six thousand pounds.

Class 4. Any motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding tractors and vehicles on which the operator and/or passengers ride within an enclosed cab.

With respect to class 4 vehicles, the law expressly provides that a person must first be licensed to operate one of the other classes of vehicles before he can be examined and licensed to operate vehicles in class 4.

One state—Vermont—has a law which authorizes but does not require the department to issue classified licenses. That law provides as follows:

The commissioner may, in his discretion, determine that certain types of motor vehicles require that an operator possess specialized skill or knowledge to operate those vehicles

PUBLIC SAFETY

13 AAC 08.140
13 AAC 08.150

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CHAPTER 08. DRIVER LICENSING
AND SAFETY RESPONSIBILITY

ARTICLE 3. CLASSIFIED DRIVER'S LICENSES

Section

- 140. Unlawful Use of Classified License
- 150. Classes of Licenses
- 160. Medical Certificate for Class A and Class B Licenses
- ~~170. Waiver Certificate of Driving Experience~~

13 AAC 08.140. UNLAWFUL USE OF CLASSIFIED LICENSE. It is unlawful for a holder of a classified driver license to operate a motor vehicle other than the type of motor vehicle which he is permitted to operate under sections 150-180 of this chapter according to the classification or endorsement on his license. (Eff. / / , Reg.)

Authority: AS 28.05.030
Authority: AS 28.15.070

13 AAC 08.150. CLASSES OF LICENSES. (a) An applicant for a classified license or for an endorsement to a classified license shall submit to an examination appropriate to the class of license or endorsement for which he is applying.

(b) The classifications of driver licenses and the vehicles which a holder or each class or subclass of license may operate are as follows:

(1) Class A license - Cars, buses, trucks, and towed vehicles. A person holding a Class "A" driver's license may only operate the vehicles designated in one of the following subclassifications indicated upon his license:

- (A) A-1: Passenger cars and ~~two-axle trucks, excluding truck tractors, which vehicles also~~ ^{may tow another vehicle with a declared gross laden weight of less than 6,000 pounds, OR A SEAT AND MORE 25 ft. in} ~~may tow another vehicle with a declared gross laden weight of less than 6,000 pounds, OR A SEAT AND MORE 25 ft. in~~
- (B) A-2: Buses and vehicles permitted under A-1;
- (C) A-3: ~~Trucks, with three or more axles, including truck tractors, towed vehicles, and vehicles permitted under A-1;~~
- (D) A-4: ~~Trucks, with three or more axles, including truck tractors, towed vehicles, and vehicles permitted under A-1;~~

(E) A-5: Any vehicles or combination of vehicles under Class A.

(2) Class B license - Motorized Cycles. A person holding a Class "B" driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

- (A) B-1: Motorcycles, Motor-driven Cycles, and Motorized Bicycles, single or in combination with trailers or sidecars designed

13 AAC 08.170

(b) When an applicant for a Class A-2, Class A-3, or Class A-4 license is self-employed and wishes to waive the driving test, he must furnish evidence acceptable to the department, of a minimum of one year's safe and competent driving experience in vehicles or combinations of that class for which he is applying. All such qualifying experience shall be upon the public highways.

(c) Certificates of driving experience will be accepted only at the discretion of the department and a complete examination will be required at the department's option.

(d) A holder of a Class A-1 license who cannot obtain a waiver or who cannot otherwise meet the requirements of this section may operate Class A-2, Class A-3, or Class A-4 vehicles only when accompanied by an operator properly licensed to operate the vehicle and who is occupying a seat beside the driver. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

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CHAPTER 08. DRIVER LICENSING
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- 160. Medical Certificate for Class A and Class B Licenses
- ~~170. Waiver Certificate - Driving Experience~~

13 AAC 08.140. UNLAWFUL USE OF CLASSIFIED LICENSE. It is unlawful for a holder of a classified driver license to operate a motor vehicle other than the type of motor vehicle which he is permitted to operate under sections 150-180 of this chapter according to the classification or endorsement on his license. (Eff. / / , Reg.)

Authority: AS 28.05.030
Authority: AS 28.15.070

13 AAC 08.150. CLASSES OF LICENSES. (a) An applicant for a classified license or for an endorsement to a classified license shall submit to an examination appropriate to the class of license or endorsement for which he is applying.

(b) The classifications of driver licenses and the vehicles which a holder or each class or subclass of license may operate are as follows:

(1) Class A license - Cars, buses, trucks, and towed vehicles. A person holding a Class "A" driver's license may only operate the vehicles designated in one of the following subclassifications indicated upon his license:

- (A) A-1: Passenger cars and ~~two-axle trucks, excluding truck tractors and vehicles which also may tow another vehicle with a declared gross laden weight of less than 6,000 pounds, or a boat with a gross weight of less than 25,000 lbs.~~ *which vehicles also*
- (B) A-2: Buses and vehicles permitted under A-1;
- (C) A-3: ~~Trucks with three or more axles, including truck tractors, towed vehicles, and vehicles permitted under A-1 and A-2;~~ *Trucks with three or more axles, including truck tractors, towed vehicles, and vehicles permitted under A-1 and A-2;*
- (D) A-4: ~~Any vehicles or combination of vehicles under Class A.~~

(2) Class B license - Motorized Cycles. A person holding a Class "B" driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

- (A) B-1: Motorcycles, Motor-driven Cycles, and Motorized Bicycles, single or in combination with trailers or sidecars designed

13 AAC 08.170

(b) When an applicant for a Class A-2, Class A-3, or Class A-4 license is self-employed and wishes to waive the driving test, he must furnish evidence acceptable to the department, of a minimum of one year's safe and competent driving experience in vehicles or combinations of that class for which he is applying. All such qualifying experience shall be upon the public highways.

(c) Certificates of driving experience will be accepted only at the discretion of the department and a complete examination will be required at the department's option.

(d) A holder of a Class A-1 license who cannot obtain a waiver or who cannot otherwise meet the requirements of this section may operate Class A-2, Class A-3, or Class A-4 vehicles only when accompanied by an operator properly licensed to operate the vehicle and who is occupying a seat beside the driver. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

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CHAPTER 08. DRIVER LICENSING
AND SAFETY RESPONSIBILITY

ARTICLE 3. CLASSIFIED DRIVER'S LICENSES

Section

140. Unlawful Use of Classified License

150. Classes of Licenses

160. Medical Certification Required for Certain Class A Licenses

13 AAC 08.140. UNLAWFUL USE OF CLASSIFIED LICENSE. It is unlawful for a holder of a classified driver license to operate a motor vehicle other than the type of motor vehicle which he is permitted to operate under sections 150-160 of this chapter according to the classification or endorsement on his license. (Eff. / / , Reg.)

Authority: AS 28.05.030

AS 28.15.070

13 AAC 08.150. CLASSES OF LICENSES. (a) An applicant for a classified license or for an endorsement to a classified license shall submit to an examination appropriate to the class of license or endorsement for which he is applying.

(b) The classifications of driver licenses and the vehicles which a holder of each class or subclass of license may operate are as follows:

(1) Class A license - Cars, buses, trucks, and towed vehicles. A person holding a Class "A" Driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

(A) A-1; Two-axle motor vehicles which vehicle may tow another vehicle with a declared gross laden weight of less than 6,000 pounds, or a boat not more than 25 feet in length; providing that the operation of vehicles with a Class A-1 license may be modified by the department by means of a permit for a limited period to allow operation in excess of the stated limit in this subclassification for personal, but not for commercial, use;

(B) A-2; Buses up to and including 16,000 lbs. net weight and vehicles permitted under A-1;

(C) A-3; Buses over 16,000 lbs. net weight and vehicles permitted under A-1 and A-2;

(D) A-4; Motor-vehicles with three or more axles, any towed vehicles, and vehicles permitted under A-1;

(E) A-5; Any vehicles or combination of vehicles under Class A.

(2) Class B license. - Motorized Cycles. A person holding a Class "B" driver's license may only operate the vehicles designated in one of the following subclassifications as indicated upon his license:

(A) B-1: Motorcycles, Motor-driven Cycles, and Motorized Bicycles, single or in combination with trailers or side cars designed to be used with these vehicles;

(B) B-2: Motor-driven Cycles and Motorized Bicycles.

(c) School bus operator permits may be obtained as prescribed in AS 28.15.130 and Sec. 5-60 of this chapter.

(d) A holder of a classified license who wishes to change the classification of his license or to obtain an additional endorsement for another class of license, shall make an application for a change or endorsement and shall submit to an appropriate examination for the change or endorsement for which he is applying; however, the department in its discretion, will not require an applicant for a change or endorsement to submit to an examination for vehicles for which he has already qualified by his existing license. An applicant for a change in classification or an endorsement shall pay the fee set forth in AS 28.15.340 for an operator's license and renewal. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

13 AAC 08.160. MEDICAL CERTIFICATION REQUIRED FOR CERTAIN CLASS A LICENSES. (a) In order to qualify for a Class A-2, Class A-3, Class A-4, or Class A-5 license, an applicant shall provide the department, at the time of application, with a medical certificate approved by the department or the United States Department of Transportation. The medical certificate shall have been issued within the two years prior to the date of application for a Class A-2, A-3, A-4, or A-5 license and must be renewed every two years. A copy of each renewal of the medical certificate shall be filed with the department.

(b) Class A-2, Class A-3, Class A-4, and Class A-5 licenses are valid for operating Class A-2, A-3, A-4, and A-5 vehicles respectively only so long as a currently effective and approved medical certificate as prescribed in (a) of this section is on file with the department. If the medical certificate of a holder of a Class A-2, A-3, A-4, or A-5 license is revoked or is not renewed as required by (a) of this section, that person may not operate Class A-2, A-3, A-4, or A-5 vehicles until a valid medical certificate is filed with the department. (Eff. / / , Reg.)

Authority: AS 28.05.030
AS 28.15.070

Additional information for classification of driver license regulations obtained from:

LYNDEN TRANSPORT, INC. (Juneau)
CHANNEL MARINA, INC. (Juneau)

MARINE HIGHWAY SYSTEM: max. weight = 35 tons (dependent upon loading ramp limitations)

TRUCK - TRACTORS (towing veh. w/5th wheel): usually 10,000 lbs.
Generally 8 ft. wide
13 ft. 6 in. high
25 ft. long (2 axle; most truck tractors)
45 ft. long (3 axle)

Most large trucks and trailers (towed vehicles) are of generally constant height and width within and approximately equal to legal limits.

MOTOR HOMES (Winebago's, etc.) generally weigh more than most Class 1, 2 axle trucks (Dept. Highways Vehicle Load Chart). Motor Homes usually have 2 axles, but some have 3 axles.

BOATS AND BOAT TRAILERS (gross weight of trailer plus boat with motor, depending on materials used in construction):

12 ft. boat - 25 ft. boat (most boats towed on highways) - 42 ft. + (15,00 lbs.+)
(600 lbs.) (7000 lbs.)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS
JUNEAU, ALASKA

STATEMENT OF POLICY GOVERNING THE ISSUANCE OF OVERSIZE AND OVERWEIGHT PERMITS:

Section 1. Statement of Policy

In order to protect the public investment in the State Highways System, and in the interests of the public safety and welfare, no vehicles carrying loads in excess of the legal limits authorized in the Vehicle Loading Chart of the State of Alaska will be authorized to operate upon the state highways without first securing a special permit from a designated and authorized representative of the Department of Highways. Authority: AS 28.05.020.

Section 2. Overweight Vehicles

a. Overweight Permits authorizing the operation of vehicles, and vehicles with loads, in excess of the maximums authorized in the Vehicle Loading Chart may be authorized by the District Engineer of the Department of Highways, except that no permits authorizing the movement of vehicles with a gross weight of 150,000 lbs. or more, will be issued without the approval of the Commissioner of Highways.

b. No Overweight Permits will be issued during the period of seasonal highway weight restrictions for the operation of vehicles on roads where a restricted weight limit has been ordered by the Commissioner of Highways or by any of his authorized representatives.

Section 3. Oversize Vehicles

a. Overwidth Permits authorizing the operation of vehicles and vehicles with loads, the dimensions of which do not exceed 16 feet in width, may be issued by the Department of Highways, subject to the conditions in Sec.'s 4, 5 and 6 following.

b. Overheight Permits authorizing the operation of vehicles, and vehicles with loads, the dimensions of which do not exceed 18 feet in height, may be issued by the Department of Highways, subject to the conditions in Sec.'s 4, 5 and 6 following.

c. Overlength Permits authorizing the operation of vehicles in combination, the dimensions of which do not exceed 80 feet in length, may be issued by the Department of Highways, subject to the conditions in Sec.'s 4, 5 and 6 following.

d. Overwidth, Overheight and Overlength Permits in excess of the dimension outlined above may be issued only when necessitated by extreme emergency or in cases of unusual hardship, and such permits may only be granted by the Commissioner of Highways.

Section 4. General Conditions Governing Issuance of Permits

a. Overweight and Oversize Permits will be issued only when the applicant for the permit is unable to reduce the proposed load sufficiently to meet the requirements of the Vehicle Loading Chart relating to maximum vehicle sizes and weights.

b. The issuance of the Overweight and Oversize Permit is contingent upon the applicant's assuming responsibility for all damage to the public highways, bridges, appurtenant structures, highway signs, public utilities and any other public feature encountered on the movement route. Whenever the driver is not the owner of a vehicle damaging any public utility, bridge, highway sign or highway, but is so operating, driving or moving the same with the express or implied permission of said owner, then said owner and driver shall be jointly and severally liable for any such damage. Action for recovery of damages may be instituted by the Attorney General of Alaska under the authority of AS 28.35.220.

c. Any damage to public or private structures, utility lines, etc. which occurs must be immediately reported to the issuing agency or officer.

d. The issuing agency may require the posting of a bond or evidence of insurance to indemnify the applicant for any damage to the highway or appurtenant structures which may occur as the result of the movement of oversize or overweight vehicles and loads.

e. Possession of an Overweight Permit issued hereunder does not absolve the driver from the requirement to stop at all highway scale installations on the route of travel and permit the inspection and weighing of the vehicle and load. Failure or refusal to permit weighing will result in the immediate cancellation of the permit.

f. All vehicles and trailers for which Overweight or Oversize Permits are issued shall be licensed in accordance with the applicable licensing laws of the State of Alaska, and all permits and applications shall record the military serial numbers or vehicle registration numbers of the vehicles to which issued.

g. Violation of the provisions of the Oversize or Overweight Permit with respect to required equipment, route of travel, hours of travel or rate of travel, will result in the immediate cancellation of same.

h. Oversize and Overweight Permits shall be carried by the operator of the vehicle at all times while operating on the public highway and shall be available for inspection by any employee of the Department of Highways or State Police.

i. The Department of Public Safety and the Department of Highways reserves the right to inspect any vehicle or vehicles described in the permit application. Additional conditions of operation including the requirement to provide a certified weight slip, may be imposed to provide for the safety of other persons using the highways, or to prevent damage to the roadway, bridges or other structures adjacent thereto.

j. The Department of Public Safety and the Department of Highways may refuse to issue an Overweight or Oversize Permit and may stop, suspend or delay the movement of any overweight or oversize load even though it may have a valid permit, whenever such movement is deemed to be unduly harmful or damaging to the highway or its appurtenances by the Department of Public Safety or the Department of Highways.

described in the permit application. Additional conditions of operation including the requirement to provide a certified weight slip, may be imposed to provide for the safety of other persons using the highways, or to prevent damage to the roadway, bridges or other structures adjacent thereto.

j. The Department of Public Safety and the Department of Highways may refuse to issue an Overweight or Oversize Permit and may stop, suspend or delay the movement of any overweight or oversize load even though it may have a valid permit, whenever such movement is deemed to be specially harmful or damaging to the highway or its appurtenances by the Department of Public Safety or the Department of Highways.

Section 5. Issuance of Oversize Permits

a. All oversize vehicles or loads moved on the public highways shall display red flags on the traffic side of the towing vehicle and trailers. Red flags will not be required for vehicles or loads, the dimensions of which do not exceed 10 feet, if the towing vehicle displays on the front bumper a sign designating "OVERWIDTH" or "WIDE LOAD" in letters not less than 8 inches high. The sign shall have a white background and red letters.

b. All oversize vehicles or loads which exceed 10 feet in width must be accompanied by a separate pilot car in front. All pilot cars must also display a red flag, and sign on the front of the vehicle as described in (a) above.

c. An additional pilot car, in the rear, will be required for all vehicles and loads which exceed the dimensions of 10 feet when the route of movement is over roads having curves, hills or other features which might reduce the extensive forward vision of motorists.

d. No permit shall be issued for the movement on the highway of any house trailer, the dimensions of which exceed 12 feet in width, except that such movement may be authorized when the trailer wheels have been removed and the trailer is mounted upon a low-boy or flat bed trailer, and the provisions of (a) and (b) above, have been complied with.

e. Permits authorizing the movement of overwidth vehicles and loads shall in all instances be limited to daylight hours, except that military vehicles, operated in convoy, the leading vehicle of which is equipped with a "WIDE LOAD" sign, and all overwidth vehicles are equipped with red lights or torches on their traffic side, may be authorized for night movement with the approval of the Commissioner of Highways.

f. Permits for the operation of overwidth vehicles and loads during Saturday afternoons, Sundays and holidays may be issued for local movements only, and only when there is an emergency requirement for same. No permits for movements on the open highway between towns or settlements will be authorized on these days of the week.

g. Single trip permits may be issued, but permits authorizing the operation of fixed load oversize vehicles, or the movement of house trailers by trailer dealers, may be issued for periods up to six months.

h. Permits will not authorize any operation at speeds in excess of 35 miles per hour.

i. In the event application for the issuance of a permit is made for the movement of any house or structure, the dimensions of which exceed 12 feet in width, or 13 feet in height, the applicant must certify that he has surveyed the route of movement to determine whether or not there will be any interference with public utility lines or other structures on the route of movement, and must provide a minimum of three (3) day's notice to the public utility prior to the date of movement to permit the relocation of any power lines, telephone lines or other utilities. The applicant will be civilly liable for any damage to public utilities on the route of movement, the relocation of which has not been communicated to the public utility agency responsible for the installation and maintenance of same. All permits for the movement of buildings or structures shall be one-trip permits.

Section 6. Issuance of Overweight Permits

a. Overweight Permits may be issued permitting the movement of vehicles and loads which exceed those authorized in the Vehicle Loading Chart only when the vehicle is equipped with pneumatic tires of a sufficient width to provide for the effective distribution of weight on the surface of the roadway.

b. No permits shall be issued during periods of seasonal highway weight restrictions.

c. Blanket Overweight Permits authorizing the operation of vehicles in excess of the time required for a single one-way trip, will not be issued.

d. Overweight Permits will not authorize operation at speeds in excess of 35 MPH. If the vehicle is also oversize, the maximum allowable speed will be 25 MPH. The maximum allowable speed across bridges will be 15 MPH and may be further reduced by reference on the permit.

In Accordance with Regulations Adopted Aug. 1, 1966

TYPICAL MAXIMUM GROSS WEIGHTS

Subject to Limitations of Permissible Axle Loadings

SEE TABLE

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS

VEHICLE LOAD CHART

LEGAL GROSS WEIGHT TABLE

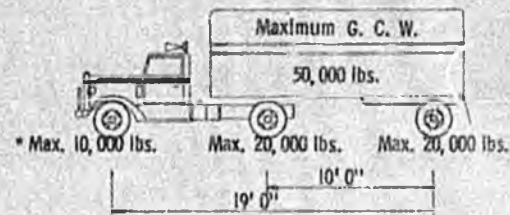
DEFINITIONS

G. V. W.: Gross Vehicle Weight
G. C. W.: Gross Combination Weight

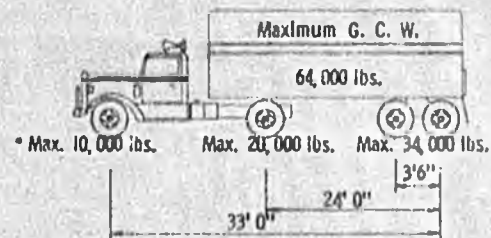
Combination: Truck Tractor & Semi-Trailer, or
Truck & Full Trailer, or
Truck Tractor with Semi-Trailer & Full Trailer



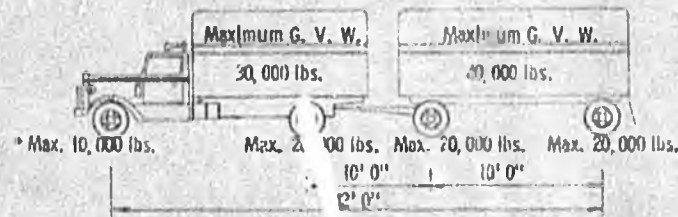
CLASS 1 Maximum Gross Weight, Including Load 30,000 lbs.



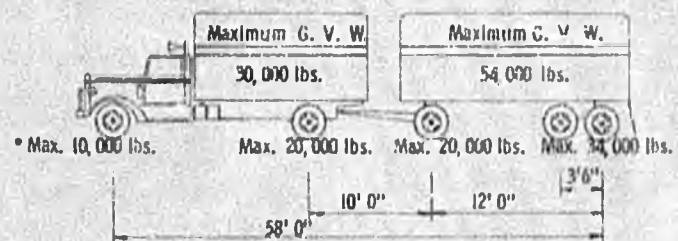
CLASS 2 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 50,000 lbs.



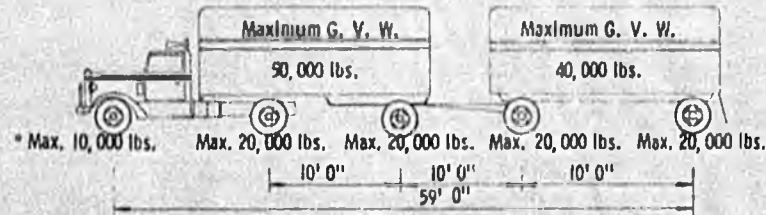
CLASS 3 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 64,000 lbs.



CLASS 4 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 70,000 lbs.



CLASS 5 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 84,000 lbs.



CLASS 6 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 85,000 lbs.

Distance in feet between the extremes of any group of 2 or more consecutive axles unless otherwise specified	2 Axles	3 Axles	4 Axles	5 Axles	6 Axles	7 Axles	8 Axles
4	34,000						
6	34,000						
8	34,000	42,000					
10	40,000	43,500					
12		45,000	50,000				
14		46,500	51,500				
16		48,000	52,500	58,000			
18		49,500	54,000	59,000			
19		50,000	54,500	60,000			
20		51,000	55,500	60,500	66,000		
22		52,500	56,500	61,500	67,000		
24		54,000	58,000	63,000	68,500	74,000	
26		55,500	59,500	65,000	69,500	75,000	
28		57,000	60,500	65,500	71,000	76,500	82,000
29		58,500	62,000	66,500	72,000	77,500	83,000
30		58,500	62,000	66,500	72,000	77,500	83,000
32		60,000	63,500	68,000	73,000	78,500	84,500
33			64,000	68,500	74,000	79,000	85,000
34			64,500	69,000	74,500	80,000	85,500
36			66,000	70,500	75,500	81,000	86,500
38			67,500	72,000	77,000	82,000	87,500
40			68,500	73,000	78,000	83,500	89,000
42			70,000	74,000	79,000	84,500	90,000
44			71,500	75,500	80,500	85,500	91,000
46			72,500	76,500	81,500	87,000	92,500
48			74,000	78,000	83,000	88,000	93,500
50			75,500	79,000	84,000	89,000	94,500
51			76,000	80,000	84,500	89,500	95,000
52			76,500	80,500	85,000	90,500	95,500
53			77,500	81,000	86,000	91,000	96,500
54			78,000	81,500	87,500	91,500	97,000
55			78,500	82,500	87,500	92,000	97,500
56			79,500	83,000	87,500	92,500	98,000
57			80,000	83,500	88,000	93,000	98,500
58				84,000	89,000	94,000	99,000
59				85,000	89,500	94,500	99,500
60					90,000	95,000	100,000

Note: Where foot distance is omitted, subtract 1,000 lbs. from next longer measurement, except 5 & 7 feet which are 34,000 lbs. Where inches are involved: Under 6 inches, take lower -- 6 inches and over, take higher.

Gross Vehicle Loads: All vehicle combinations, including those not shown in diagram, are subject to restrictions by the Legal Gross Weight Table, in conjunction with Axle and Wheel Loading restrictions listed below.

Maximum Overall Height: (Including Load) Not to exceed 13 feet 6 inches.

Maximum Overall Width: (Including Load) Not to exceed 96 inches, plus 6 inches maximum for safety devices and/or load binders.

Maximum Overall Lengths: (Including Load) Single unit truck, bus, or Semi-trailer 30 feet
Truck Tractor - Semi-trailer 60 feet
All other combinations 65 feet

Axle Spacing: between single axles Minimum 10 feet
Between single and closes; tandem axle Minimum 8 feet
Between tandem axles Minimum 3 feet 6 inches

Axle Loadings: Single axles not to exceed 20,000 lbs.
Tandem axles not to exceed 34,000 lbs.

Wheel Loadings: Individual wheels not to exceed 500 lbs. per inch of tire width as customarily measured and rated by the manufacturer.

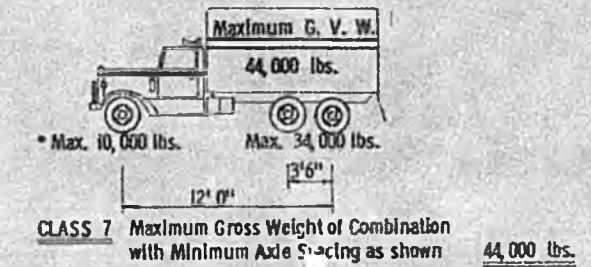
Excess Weight, Height, Width or Length: Oversize and overweight permit information on back side of this form.

Solid Steel Wheels or Tracks: Are prohibited from travel on paved roads. Tractors with lugs are prohibited from travel on, or crossing pavement or bridges, unless protected by planking.

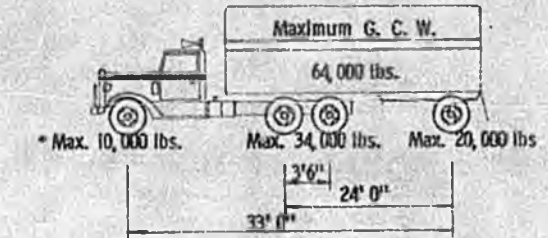
Note: ALLOWABLE LOADS ARE SUBJECT TO TEMPORARY REDUCTION FOR WEAKENED ROADBED OR BRIDGE CONDITIONS.

Note: All Axle Spacings as shown are minimum spacings for weights indicated.

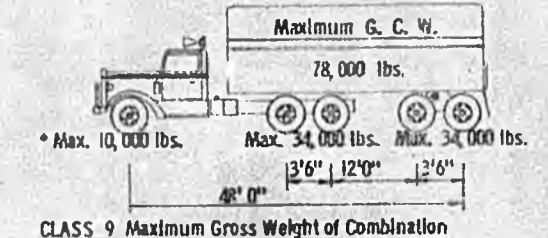
* Maximum Gross & Axle Loadings shown on diagrams are with use of 10.00 Inch tires. Increased Front Axle Loading and any resulting increase in Maximum Gross Loads as described in diagram are restricted by wheel and axle loading limitations and Gross Weight Table shown above.



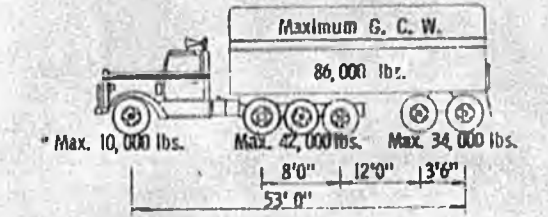
CLASS 7 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 44,000 lbs.



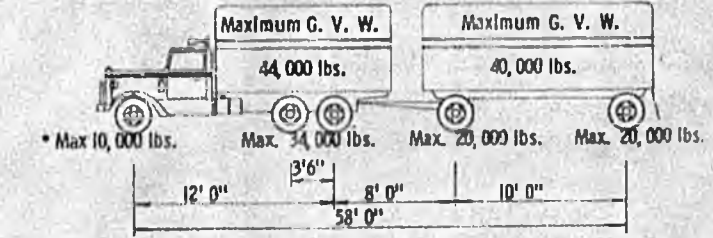
CLASS 8 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 64,000 lbs.



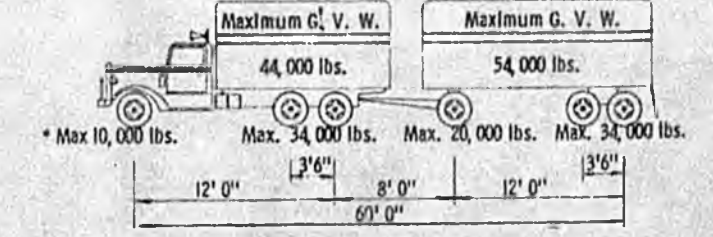
CLASS 9 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 78,000 lbs.



CLASS 10 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 86,000 lbs.



CLASS 11 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 84,000 lbs.



CLASS 12 Maximum Gross Weight of Combination with Minimum Axle Spacing as shown 90,000 lbs.

Chapter 15. Operators' Licenses.

Article

2. Cancellation, Suspension or Revocation of Licenses (§§ 28.15.170—28.15.258)

Article 1. Issuance, Expiration and Renewal of Licenses.

Section

40. Instruction permits and temporary licenses

Section

70. Examination of applicants

Sec. 28.15.040. Instruction permits and temporary licenses.

(d) The department may issue a special operator's permit to a person who is at least 14 years of age with the consent of his parents or guardians for the purpose of operating a motor scooter or motor bicycle upon the highways. This permit shall be issued upon application and payment of the prescribed fee and is valid for the same period of time as an operator's license. The permit is not valid in a city or borough which by ordinance prohibits operation of a motor scooter or motor bicycle by a person under the age of 16 years. A borough may adopt the ordinance on a non-area-wide basis only, unless the power to adopt it on an area-wide basis is acquired under AS 29.33.250-29.33.290.

(am § 41 ch 53 SLA 1973)

Effect of amendments.

The 1973 amendment substituted "29.33.250—29.33.290" for "07.15.350" at the end of subsection (d).

As the rest of the section was not affected by the amendment, it is not set out.

Legislative committee report.—For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

Sec. 28.15.070. Examination of applicants. (a) The department shall examine every applicant for a driver license, except as otherwise provided in this section. The examination shall include a test of the applicant's eyesight, his ability to read and understand highway signs regulating, warning and directing traffic, his knowledge of the traffic laws of the state, and shall include a demonstration of ability to exercise ordinary and reasonable control in the operation of the appropriate vehicle. The department shall provide for

an examination in the community where the applicant resides or at a place convenient to the applicant.

(b) A driver license issued after July 1, 1973, under the authority of this section, shall indicate the classification for which the applicant has qualified by examination. Driver license classifications shall be prescribed by regulations promulgated by the department. The regulations may specify classifications as to operation of vehicles, whether operated singly or in lawful combination and whether for hire or not for hire, and may specify such other classifications as the department in its discretion may prescribe. Before any such regulations are enforced, they shall be submitted to and approved by the legislature.

(c) The department may enter into agreements with local governments for the conduct of the examinations provided for in this section. (§ 9 ch 173 SLA 1959; am § 1 ch 59 SLA 1972)

Effect of amendment. — The 1972 amendment, in subsection (a), substituted "a driver" for "an operator's" in the first sentence, substituted "a demonstration" for "an actual demonstration" in the second sentence, and

substituted "the appropriate" for "a motor" in that sentence. The amendment also added present subsection (b) and redesignated former subsection (b) as present subsection (c).

Article 2. Cancellation, Suspension or Revocation of Licenses.

HCR

39

Relating to a revision of the substantive criminal law of the state.

COMMITTEE REPORT

3/18/75

HOUSE

Mr. Speaker:

Date 3/18/75

The Committee on Judiciary has had HCR 39

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>Jerry Handberg</u>	<u>Tom E. Brown</u>	_____	_____
<u>Ed. [unclear]</u>		_____	_____
<u>[unclear]</u>		_____	_____
<u>[unclear]</u>		_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Jerry Handberg Chairman

A M E N D M E N T

OFFERED IN THE HOUSE:

By: House Judiciary

To: _____ HOUSE BILL No. HCR 39

SENATE BILL No. _____

PAGE: _____

LINE: _____

page 1, line 25

after "should be" INSERT "broadly"

page 1, line 27: DELETE all on lines 27, 28, 29 after "laws,"

page 1, line 27: after "criminal laws" INSERT "; and be it"

page 2, line 3: DELETE "work of the commission,"
and INSERT "commission's work."

House Judiciary Committee
March 20, 1975

The meeting was called to order at 7:20 p.m. by Chairman Gardiner. All members were present except Mr. Fink and Mr. Specking.

HB 265/266 Community Legal Assistance

Mr. Brown moved out both bills with a do pass recommendation. Mr. Bradley objected and withdrew his objection. There being no further objection, HB 265 and HB 266 were passed out of committee do pass.

HCR 39 Criminal Code Revision

Mr. Parr moved the bill out do pass. The group objected. Mr. Brown moved that on page 1, line 29, law enforcement officers and members of the lay public be included and "and the like" deleted. There was an objection and Mr. Brown withdrew his amendment.

Mr. Gardiner moved that on page 1, line 25, insert "broadly" after should be and on line 27 put a period after laws and delete the rest of the sentence to line 29 "and be it" The amendment passed.

Mr. Parr moved that on page 2, line 3 "the work of the commission" should be deleted and replaced with "the commission's work." The amendment passed.

Mr. Brown moved HCR 39 am out do pass. There being no objection, the bill was passed out of committee.

HB 237 Divorce/mediation

Mr. Brown moved the following amendments:
page 1, line 14, 15 delete all and insert "Sec. 09.55.115. MEDIATION. (a) At any time within 30 days after a complaint or cross complaint is filed, a party to the action may submit a request to the court"
page 1, line 20, delete all and insert: "the court may at any time order the parties to submit to mediation if there is"
page 1, line 28, delete all and insert: "of any minor children of the marriage, shall attend. Counsel for the parties may attend."
page 2, line 5, delete all of sec (e).
page 1, line 23, delete "himself"
Mr. Brown's amendments passed.
Mr. Brown moved CS HB 237 out of committee do pass. There being no objection, the bill was passed out of committee.

HCR

88

COMMITTEE REPORT

4/30/76

HOUSE

Mr. Speaker:

Date May 6, 1976

The Committee on JUDICIARY has had HCR 83

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR _____ AND THAT
CS FOR _____ DO PASS

() "and" recommends it BE REFERRED TO THE _____
COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

<u>Terry</u>	recommends: <u>NO REC</u>
<u>John</u>	recommends: <u>NO REC</u>
_____	recommends:
_____	recommends:
_____	recommends:

Terry Chairman

AMENDMENT

OFFERED IN THE HOUSE:

By: STATE AFFAIRS

To: _____ HOUSE BILL No. HCR 88

SENATE BILL No. _____

PAGE: 1

LINE: 25

After "Committee", insert "or its successor";

Page 1, Line 26

Delete "transfer" and insert in its place "make available"

Introduced: 2/10/76
Referred: State Affairs and
Judiciary

1 IN THE HOUSE

BY PARR

2 HOUSE CONCURRENT RESOLUTION NO. 88

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 Relating to the selection of a new capital
6 site.

7 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 WHEREAS at the November 1976 General Election the qualified voters of
9 the state will select the site of the new capital city; and

10 WHEREAS under the provisions of AS 44.06.160 (Initiative No. 1, 1974)
11 "the legislature at its next session following the selection of the new
12 capital site, shall provide for the planning of subdivision of a new capital
13 city and district within the bounds of the area selected, and for the con-
14 struction of necessary state and public facilities and for their administra-
15 tion;" and

16 WHEREAS the magnitude of the task of planning the new capital city
17 requires that the legislature do as much advance planning and research as
18 possible;

19 BE IT RESOLVED by the Alaska State Legislature that the Legislative
20 Council is respectfully requested to establish a capital planning committee
21 composed of members of the legislature to investigate the problem of planning
22 the new capital city and to submit a report to the legislature, including
23 recommendations concerning legislation to carry out the mandate of the
24 voters, not later than February 1, 1977; and be it

25 FURTHER RESOLVED that the Capital Site Selection Committee is respect-
26 fully requested to transfer all of its books, records, papers, plans, and
27 other materials to the Capital Planning Commission⁹⁵ established by ^{AS 44.06.200} the Legis-
28 ~~lative Council~~ ^{Dec 1} ~~no~~ later than ~~June 30~~, 1976.
29

#

SB

5

COMMITTEE REPORT

4/4/75

HOUSE

Mr. Speaker:

Date 4/11/75

The Committee on JUDICIARY has had CS 5 am

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

() recommends it BE REPLACED WITH CS FOR CS 5 am AND THAT (CS 5 am)

CS FOR CS 5 am DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

House Judiciary Committee
February 19, 1974

Joint Hearing with Senate Commerce

Anti Trust - HB 42/HB 137/ SS SB 5

The meeting was called to order at 2:30 by Senator Kerttula.
All House committee members were present except Mr. Fink.

Since those who wished to testify were unprepared, the meeting
was rescheduled for 2:15 Friday, February 21.

The Attorney General fielded questions from the committee
members. The question was raised concerning the possibility
of differences between interpretation of federal law and
the intention of very similar state legislation.

Mr. Gross stated that bigness would not constitute a violation
and that Alaska needs anti trust legislation despite federal
laws. Over 40 states already have such legislation. He would
hope that anti trust would be handled as another consumer
protection action.

House Judiciary Committee
February 21, 1975

33

Tingle

HB 137/HB 42/SS SB 5 Anti Trust

A joint meeting of the House Judiciary and Senate Commerce committees was called to order by Senator Kerttula at 2:30.

William Hopkins, Manager of Alaska Oil and Gas, introduced Mr. James O'M. Tingle of the law firm Pillsbury, Madison and Sutro in San Francisco. Mr. Tingle testified that he favors a bill on this subject, but an "appropriate" state bill. He favors adoption of the uniform state anti trust act.

Mr. Tingle made the following comments concerning SS SB 5. Sections 1 and 2 of the Sherman Act concerning restraint of trade and monopolies is included. Federal cases could be used to interpret the state legislation. He suggested the addition of "predatory intent" to the monopoly section.

Section 40 of SB 5 -- unfair competition and practices -- this is already covered in Alaska's Consumer Protection Act and is not needed in this bill.

Sections 30, 50 and 60 are from the Clayton Act and are not suitable for a state statute.

Other comments: The state should not have automatic triple damages. He was against criminal instead of civil penalties. Section 60 raises a problem with the Native Corporations. Provisions on investigatory powers should be "has reason to believe." Section 150 -- consent decrees hampers the Attorney General. Section 160 -- delete nolo contendere reference.

Bill Fritch of the Alaska Carriers Association testified that there should be exemptions for regulated public utilities and carriers.

House Judiciary Committee
February 27, 1975

Joint Hearing with Senate Commerce

Lamont

Anti trust legislation SS SB 5, HB 42, HB 137

William J. Lamont testified at the request of the committees. He cited the following as reasons why states need anti trust laws:

- there are commercial activities beyond the interstate commerce clause
- inadequacy of federal enforcement
- federal agents advise and provide surveillance, not direct prosecution. The government helps organize industry to almost encourage monopolies
- federal agencies want state help.

He favored state statutes modeled on the federal statutes for the following reasons:

- have judicial definitions of terms
- minimum application of doctrine of federal preemption
- Sherman Act designed to supplement state legislation (no inconsistencies)
- need for uniformity among states - familiarity with laws -- (The uniform act is not widely accepted) - *adaptation Arizona*

He made the following section by section comments on SS SB 5:
Section 10 - Section 1 of the Sherman Act.

Section 20 - Sherman Act. Against active monopolization not the existence of a monopoly as in the title of the section. A monopoly by itself isn't illegal if it results from superior business practices or chance (federal interpretation)
Deliberate price fixing to exclude competition -- a monopoly deliberately started or being exploited. (need letter of intent to state that definitions developed in federal law apply)

Section 40 - From Federal Trade Commission Act -- unnecessary, already in Consumer Protection statutes

Section 50 - Section 7 of Clayton Act -- useful and appropriate

Section 60 - Goes a little farther than Section 8 of the Clayton Act -- good. Might need a specific exemption for the Native Corporations for a limited time "activities in aid of or necessary to the federal act . . ."

Section 70 - Co-op activity -- Regulated public utilities specifically authorized to do things would not be challenged under anti trust. Problem of unitization of oil leases (may be taken care of by federal action) Statement of Intent