

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

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merely be for tax advantages as being an Alaskan corporation. However, most of the money ends up in the bank coffers outside. These companies can hire and fire the owner/operators at will. They ask for protection from the Legislature through the Alaska Transportation Commission, but yet when the owner/operators stand up and want protection also as another entity in the transportation industry they're are the same ones who stand before the Commission and oppose any other entries into it. On the one hand they want protection from the State, or protection by the State on the other hand they don't want the people that have by far the majority of the investment. They don't want to afford them any protection at all.

Number 137

Senator Kelly: Pappy.

Number 138

Rep. Moss: Question, you used the expression, hire and fire, at will. Maybe a little explanation of contracts to me would help me to understand. How can you hire or fire a contractor who had a solid contract with you?

Number 140

George Rouse: It is very, very easy. I think anyone in the room can attest to that. Under the Interstate Commerce Act they can terminate a contract in thirty days, however, that isn't a reality. Legally it exists but in reality they can terminate a contract at will.

Number 146

Rep. Moss: How do they do that if they have a written contract with them?

Number 147

George Rouse: I think that some of the gentlemen attested to that, that I know one gentlemen that stated that he didn't want to sign an appendix to his contract and they said unhook from the load and go elsewhere. But I think what has happened in the State of Alaska, I am like I said, I am neither thrilled.

Number 151

Rep. Moss: Let me get into this, the addendum.

Number 152

George Rouse: Good, good, here is your call.

Number 153

Rep. Moss: Oh, hell. The one question that I need to know is that on the addendum. In

other words, they would terminate because they wouldn't sign that part of it. It seems to me like if you had a good solid contract that you got started you wouldn't have to.... I mean hell... you got to renegotiate again or something before they can terminate a contract.

Number 157 George Rouse: Well, it is their contract, they present the contract to you. You either take what they offer or you don't take anything. I mean you....

Number 160 Rep. Moss: In other words, you have.....

Number 161 George Rouse: Those are not negotiated contracts necessarily, they're are typed up by the trucking company and presented to the owner/operator.

Number 162 Rep. Moss: Thank you. Excuse me Mr. Chairman, I have got to run I think.

Number 162 Senator Kelly: I hope that you do something. It is not Pappy's fault anyway.

Number 163 George Rouse: But anyway the situation in Alaska, I don't think it comes down to a matter of who is right or who is wrong. When the Act, when the Legislature, years ago, created the Alaska Transportation Commission they weren't aware that down the road there would be a group, a rather large group of owner/operators. That has only come about basically because of the Trans-Alaska Pipeline. It seems very unfair to me, and I think the general public of Alaska, that the Legislature can protect one special interest group and refuse to protect the other special interest group. Basically trucking companies, and I have studied many, many of them through the course of 14 years owning a tariff research company. The common carriers that these people are hauling for are truckload carriers. You have two groups of common carriers in reality. One is an LTL that holds out to the general public such as Sea Land, Totem. Down below you have big trucking companies, PIE Consolidated, IML. They hold out to LTL freight. The people that we are talking about here generally hold out for truckload freight. The companies that I heard earlier give testimony. And most of these companies that

these people haul for are strictly truckload companies. They don't get into LTL freight. So that they...they're investment is minimal compared to what the individual trucker has to invest. At their discretion, they can either terminate or make life miserable for you, and generally send him down the road at will. What is happening up... basically in the industry in the Interior is that with added competition for freight the trucking companies are finding that it is more favorable to get rid of some of the people that they have had that are longtime Alaska residents who have established homes, have families there that spend their money in Alaska and they have no social conscience as far as his well being goes. Their companies are profit motivated, it doesn't really bother them if he's employed or unemployed. They're basically concerned with showing a profit. They can bring truckers from outside, they don't even have to solicit truckers. All that... every trucking company up here receives numerous phone calls everyday from the outside. Truckers that want to come up and go to work. The economy down below is very sluggish, there is an over supply of owner/operators in the nation down below. The problem that these people have described to the Commission, or to the Committee now is just the tip of the iceberg. By fall it will be many, many times worse than it is now unless the Legislature takes it upon themselves to protect its citizens. In lieu of protecting the special interest of the very few trucking companies. The amount of money that we're talking about to the economy to the Interior is great. The trucking industry is one of the major industries in the Interior. I would estimate that \$20 to \$25 million a year is earned by the independent operators up there. Probably an equal amount is owned by the trucking companies. I have found many cases in studying tariffs and knowing what the owner/operator gets while the trucking companies at least 50 to 60% off of every load that the owner/operator hauls. The owner/operator has virtually no knowledge of what the trucking gets for the service. If it is an interstate movement it is moved on an interstate freight bill. He would have to be a Philadelphia lawyer to try to understand what is going on. The trucking

companies purposely keep that information away from you. It would not be to their advantage to let you know. I think that the legislative body in Alaska has an obligation to protect the citizen as well, and these people are citizens of the community as a very special interest group of trucking companies, common carriers who apparently show, and as a whole, not just here but elsewhere in the nation, this type of common carrier, the truckload common carrier that uses owner/operators is not really too morally conscious of how they treat the owner/operators. There are many, many cases where they just let them go broke while they're getting fat. So I think that the Legislature should take a strong look at a problem that does exist in the community, or in the Interior. It goes far beyond the what I have heard here today I think that within a very short period yet this summer we will see such an influx of trucks coming from outside... that problem by the time the Legislature convenes next year, it will be too late for these people and many, many other Alaska residents that have tried to establish a decent livelihood for their family.

Number 251

Senator Kelly: Mr. Rouse let me break in for a minute. Something you said jogged my mind. You said that the owner/operator industry really expanded during the pipeline. Was that because current companies didn't have the capital or didn't want to use the capital to go out and buy their own rigs and...

Number 255

George Rouse: Okay, truckload freight it is much more advantageous for a trucking company to use an owner/operator. During the pipeline they could have easily raised the capital to buy the trucks themselves but they wouldn't have made as much money. In all cases throughout the country where you see truckload freight the common carrier prefers to use an owner/operator. The only... in reality the only one's that choose to buy their own trucks are the ones that are in the LTL freight business, less than truckload where they are shipping small packages. But the revenue is so high there compared to a truckload movement that they

can well afford to have their own trucks.

Number 269

Senator Kelly: I am sure you all know Senator Fahrenkamp from Fairbanks. Bettye is not on the Committee but she has a special interest in the legislation and wanted to come by. Anything else?

Number 271

George Rouse: That's about it, other than I would really like to stress on the Legislature that they do have a very serious problem with the owner/operators. They're a good sized body in the economy. The money that they make they spend it in their home towns versus the money that the trucking companies literally go outside. I don't like to see a disruption of the transportation industry and I think that we are about to see a big disruption of it in the very near future, not because, I certainly think that it is because of labor disputes. If anything it is the lack of responsibility towards the community the trucking companies are showing. Yea, that's all that I've got to say.

Number 286

Senator Kelly: Glenn Kent, he's not here. David Glover.

Number 288

From Participants: He gave his testimony earlier.

Number 293

Senator Kelly: Ted Maklin from Fairbanks. Doug Windge.

Number 297

Doug Windge: My name is Doug Windge and I am from Fairbanks and Mr. Chairman and Senator Fahrenkamp. Please let the record reflect I strongly support SB 135. My reasoning is jobs for Alaskans. We gave limited entry to the fisherman, and now it is time to give something to the resident owner/operator. I spend my money in Alaska which helps support our economy. Those coming in from the Lower 48 only destroy our economy our industry and our families. I had just finished my year as Exalted Ruler of the Elks Lodge #1551 and I have been deeply involved in community service work such as youth activities and senior citizens and Special Olympics. If I am forced out of business by the influx of owner/operators from the Lower 48 then I suffer, my family suffers and my families involvement in our community becomes badly

impaired. I have heard it said that we need more time on this bill. More time means more owner/operators from the Lower 48 and less jobs for Alaskans. I was hoping that Mr. Doyle would be here because I had couple of things that I wanted to say. I will say them anyway. Mr. Doyle said a couple of things that I would like to expound on. One, he said a lot of us are out on strike but what he failed to say was that we had parked our trucks before the hostlers went out on strike. We are honoring their picket line, we are not on strike.

Number 330

Senator Kelly: Who are the hostlers?

Number 331

Doug Windge: Hostlers are the ones that move the freight in within fifty miles of the terminal. In other words, if it is a hostler then it is fifty miles within Anchorage, he has all the freight within that. Anything beyond that becomes a line-driver the same as Fairbanks. So they're the ones that went out on strike because of an equipment lease dispute and while we were in that problem the hostlers went out on strike, we honor their picket line. That's why we are not on strike. and the second is if he is paying his owner/operators why did his number one driver quit because he couldn't make it with what he was being paid. I had hoped that he would be here so he could answer that one. When the Alaska Carriers cut their rates to compete with the companies bringing outsiders the owner/operators takes the blunt. If they cut \$4.00 a hundred weight it costs the company \$1.00 and the owner/operator \$3.00. We desperately need the support of our elected officials in settling this matter. Thank you.

Number 355

Senator Kelly: Duane Powell, please.

Number 359

Duane Powell: Mr. Chairman, Senator Fahrenkamp, I have here a letter that would probably go along with the one that you introduced during the start of the hearing. I would like to read it. It is from Fairbanks not Anchorage it is dated 1 May to the Senate Rules Committee, gentlemen, we as longtime residents, voters, and owner/operators and truckdrivers in Alaska ask for the support of the you and your colleagues in passing of CCSB 135. This

legislation is necessary if we as longtime residents, taxpayers and property owner and owner/operators are to stay in business as owner/operators. The influx of owner/operators from the Lower 48 that are willing to work cheaper, live in their trucks and who send all of their money down to their families in the Lower 48 has had a devastating effect on our industry. Without passage of this bill our financial is doomed. And we will no doubt lose the investments we now have in homes and equipment that we have acquired over the past 20 years. Some of us have as many as 35 years invested in Alaska, our property and equipment. Signed Jim Lane, Leonard Fishell and Carol Barber. Now, Mr. Windge just already covered something on those lease cancellations 'Judge before our strike so I won't go into that. And I think Mr. Chairman, you asked, I believe it was the gentlemen from the ATC, how permits, operate permits or authority could be transferred with money owed to people that operated previously under these conditions. Those permits are not simply transferred they are sold and for a pretty good price most of them. I think this will probably be a matter of public record if it was looked into. Where does this money go, those people, such as Mr. Keffer still have money coming to them and don't see any of it. This is why we need some sort of protection. If we don't get it I don't quite know what we are going to do. I think that myself and my family, we have only been up here 7 years. We have tried to make a definite investment in Alaska. The way it looks now it may have been a wrong thing to do. And not only as an owner/operator but with my wife we have a pilot company. We have the same problems there. The companies more or less set the rates and tell you if you don't want to work for those, and these by the way are rates that are paid by the shippers not the company. So in making off the freight and they also make money off of us. And I think along with CSSB 135 and some of the existing regulations that we now have, if they were enforced a little more we might have half a chance. Thank you.

Number 428

Senator Kelly: Thank you. Bettye?

- Number 429 Senator Fahrenkamp: One question there. As I understand it there the pilot cars have come across the Canadian border, is coming into Alaska and pilot the load to wherever he's going but Alaskan drivers can't go across the border you have to stop there.
- Number 432 Duane Powell: We don't cross the border. We are not allowed according to Canadian regulations.
- Number 435 Senator Kelly: Thank you. Mr. Sandre or Sands.
- Number 437 Mel Sandre: I don't think that I can add anything. I just think that I strongly urge you to support SB 135. Thank you.
- Number 441 Senator Kelly: Next is Joe Gilbertson.
- Number 443 Joe Gilbertson: Thank you, Mr. Chairman, Senator Fahrenkamp. I am, at this point, retired as an owner/operator in Alaska and went into business for myself and currently I'm running Big State Equipment Company and competing in that market as a private carrier. There is numerous reason that I done what I did and that primarily was because the Alaska Transportation Commission refused to enforce the laws, the rules and regulations as written. I myself and Sea Land petitioned the Alaska Transportation Commission to quit giving away (indisc.) 070 where by the carrier had a net cost and they would subtract all costs out of the owner/operator. So, two years ago I became an owner/operator and have since retired. I believe myself that if the ATC would have enforced 070 as it is written we wouldn't be here today but all these carriers have been looking for a net cost and absolute net cost. They first asked the owner/operator to let him deduct the wages, then the owner/operator supplied the trailer, then the owner/operator supplied the fuel, then the owner/operator supplied the tie-down equipment. It's gotten down to they know exactly what it is going to cost them and they take anywhere from 40%, 25% to 40% right off the top. They have effectively, the carriers themselves have effectively become nothing more than brokers and at the same time made the owner/operators contract carriers. Now the Commission would never

recognize that but that's what the carriers have made our owner/operators. Absolutely nothing but contract carriers. And I myself support the owner/operators in their efforts. I think that it is a shame that they have to go to this body to get some relief. But one of the things that we must remember is the owner/operators are operating today under an antiquated set of rules that was written back shortly after statehood. Let me tell you about statehood, when we became a state in 1959 we had two owner/operators in the State and that can be documented. Since that time because the carriers have seen that it is advantageous to go that way, they feel that the owner/operators is nothing but a tool to use and abuse. They have went today 90 some percent owner/operators supply everything. Even workman's compensation, cargo insurance, they are being charged all of it. I feel myself that it is time that somebody stepped in and done something or at least call for a full investigation into what's happening out there in the transportation community. As far as SB 135, I support it in context, section 1 and 2. Section 3, I have a problem with it. Like I stated earlier, I give up and quit and retired as an owner/operator because I didn't want to be maneuvered anymore. I feel that section 3 might allow them, regulated carriers, to maneuver me as a private carrier in as much as I have the Tesoro distributorship in Fairbanks Alaska and Tesoro is not too competitive right now in the Fairbanks area because they have to compete with the North Pole refinery and they are the only ones that don't draw their product from the North Pole refinery so I have to compete from the Prudhoe Bay and the Arctic coast region mostly. I'd like to see section 3 just deleted from the bill when the owner/operators came down here and asked for some relief. With their needs they were primarily looking for limited entry or permitted leases or whatever. I don't know how section 3 got tacked on there and it looks to me like it is something that is just riding piggyback through on a owner/operators bill.

Number 536

Senator Kelly: Can someone answer this. Was section 3 part of the original bill that was

introduced?

Number 537

Bill Zybach: Yes, sir it was. To specifically address the question of unfair competition between common carriers and private carriers. Specifically, in situations where private carriers were acting as common carriers without the responsibility or liabilities that common carriers have.

Number 543

Senator Kelly: Bill Zybach is Charlie Parr's administrative assistant.

Number 548

Joe Gilbertson: Yea, I've talked to Bill on that. However, in light of something else as a private carrier even if that's what I was classified after this bill passes, if in fact it does pass, I still as a private carrier can't compete, can't use owner/operators. The law just don't allow that. I feel that if the owner/operators are saying they feel that it is unfair that they have to compete with the private carriers then they ought to be able to lease to the private carriers because effectively I think the market would regulate itself a lot better. If I was running owner/operators and treat them right I would be sure that some of these regulated carriers would have to treat them right to compete for them too. I only have one other thing that I'd like to say. I have.... this is not a labor issue involved here as far as I am concerned. I have always had good repore with labor and as far as the owner/operators I have always had good repore with the owner/operators. I don't think I have an ounce of problem with labor or the owner/operators. Thank you.

Number 571

Senator Kelly: Thank you, Mr. Gilbertson. Is there anyone who hasn't testified that would like to testify now. T.J.? Would you identify yourself for the record please.

Number 575

T.J. Thrasher: My name is T.J. Thrasher, I am Managing Director of the Alaska Trucking Association. We represent about 425 trucking firms and allied trucking firms in the State of Alaska and we do not support this bill. Now, the reason that we don't support is not that we don't recognize that there is a problem in the Interior region. However, this bill is not going to correct that

problem by any means. Within this bill it has called for the owner/operator only to have permit or authority to operate if public convenience and necessity demands it. If this bill goes into effect, those people who are not working and who are not out of work are not going to qualify. If they are attempting to limit entry into that then later on down the road whenever the owner/operator demand is greater then possibly they could become included in that. Now, perhaps there was an intent to make this kind of like a grandfathering type deal but that is not addressed within this bill. Additionally, I'd like to point out that there are approximately 1200 owner/operators statewide that this will effect. And I believe that these figures can be backed by the Transportation Commission. We are talking about approximately, I've heard figures of 100, 147, 143. We are attempting to correct a situation in a isolated area of Fairbanks from those who chose not to work for one or more common carriers and there are 400 common carriers in the State of Alaska. So what we are attempting to do is to correct a situation by legislation that will effect a very small portion of these people.

Number 622

Senator Kelly: Let's get back to your point for a minute. On the grandfather rights, and explain that to me again. If in fact we don't grandfather existing owner/operators, if somebody is not operating as an owner/operator, Joe Gilbertson ever wanted to go back to an owner/operator, you are saying that under the terms of this bill that he can't do it.

Number 630

T.J. Thrasher: That is exactly the way I understand the interpretation of public convenience and necessity simply means demand for services. If there are already, however you are going to go about permitting these whatever standards you are going to assess. I think that those that are wanting this badly had better look into this. Now, unless that can be done by another regulation, then those that are not now qualified as owner/operators I don't know they are going to get in. That's my basic question. Where we are not in the

owner/operators as a whole the 1200 want to be regulated then certainly they should be. We are only asking you to listen and get input from those who are working as owner/operators throughout the State of Alaska and not just well the ones in Fairbanks or the Anchorage area. We are talking about a big portion of these we've already talked about... a big portion of the transportation community. And we are only asking that you do get input from the rest of the owner/operators and that some provision, some clarity is, you know, is either in the bill itself or whatever means you intend to but public convenience and necessity is a term that the common carrier deals with everyday and deals with quite heavily. The owner/operator has never had to deal with that.

Number 663

Senator Kelly: Bill, do you know what Charlie had in mind on that?

Number 665

Bill Zybach: We have an outline of the intent of the legislation which Charlie felt when we originally did this together. The specific intent is have to have the ATC and we have discussed this with the ATC. Essentially grandfathering would be everyone who is in the State as an operator at this time would be able to get a permit. Then above and beyond that any new entries into the market would have to meet the requirements of need and public convenience and necessity....

Number 677

Senator Kelly: Two questions..... Who do you classify as an owner/operator in the State right now? Do you have to have been an owner/operator in the past two years or if you're working today.

Number 682

Bill Zybach: No, anyone who has operated in the recent past.

Number 684

Senator Kelly: How recent?

Number 685

Bill Zybach: The past two years. The period of time was to be determined by the ATC.

Number 687

Senator Kelly: I'm surprised that it is still... we're going to leave it up to the ATC instead of putting it into the legislation.

Number 690 Bill Zybach: Frankly, the reason that it wasn't put into the legislation because of the format that we used to introduce the legislation. It was introduced as amendments and we, we're interested, Charlie is interested in having that grandfather clause and introduced however in the time frame and in the manner in which we introduced the amendments. Specifically these were originally intended for 586 we just didn't think it was appropriate.

Number 702 Senator Kelly: Tim, does your association have a position on that grandfather clause thing?

Number 704 Tim Gunderson: We definitely do. We had earlier in the session... we had sent a number of documents to all legislators in effect to be complete and what we considered to be recognized in the Administrative Code. In that Administrative Code we didn't understand the difference between the statute and the Administrative Code. You know that proposal, we called it the Transportation Subcontractors Proposal, and we asked that all person operating as an owner/operator during the period of time between 1976 until present.

Number 720 Senator Kelly: The question would be, how would the ATC know who each of these people are, would they be registered or do they have to get a special license or.....

Number 724 Tim Gunderson: Yes in that you would have to fill out an application and in the process of the application you would be required to meet certain criteria. One of those criteria, in terms of grandfathering, would be to provide proof that you operated as an owner/operator during that period of time. What would be considered proof, I believe acceptable to the ATC would be (indisc.) sheets showing that you were the owner of the truck and that the monies were coming to you. A definite demonstration of the fact that you did function as an owner/operator during that period.

Number 000 CHANGE TAPE TO #3 SIDE A. Bill Zybach:..... to provide services if there were not, if it were determined through the

hearing process that they were not that type of truckers then no permits would be issued. If they weren't adequate truckers those new permits would not be issued.

Number 004

T.J. Thrasher: I have a... Mr. Chairman and Senators, I think that is one of the problems that is bothering the Trucking Association. Not only the common carrier and private carrier we also represent owner/operators. We have 49 owner/operators who are a part of our association. The problem is that this has gone so quickly this is the very first public hearing, we have not been privy to any of these letters of intent nor have we been privy to the amendments, the background for them, in fact, input has not been solicited. And not that we know everything, we simply know that if we are talking about 1500 or 1200 people and what will affect them then we feel that it is critical that the intent be made known. And that we don't represent a small.....

Number 013

Senator Kelly: There was no hearing on this in Finance Committee.

Number 014

T.J. Thrasher: No, there wasn't.

Number 015

Bill Zybach: Yes, there was.

Number 015

Senator Fahrenkamp: Finance, sure was.

Number 016

T.J. Thrasher: There was not a public hearing, these were to be introduced as part of 586 and we did not have those.

Number 016

From the Audience in unison: There was... yes.. there was.

Number 017

Bill Zybach: Excuse me, T.J., I gave them to you personally. Well, the trucking association didn't, you gave them to me, like you gave me the amendments today at 1:00 p.m.

Number 019

Senator Kelly: Okay, it is hazardous to say. How much more.... Let me ask Larry Michou from ATC. About that grandfather clause, Larry, where would you get your authority as the grandfather clause from the legislation. From reading the legislation, I don't see

where there is any authority in there for a grandfather clause.

Number 025

Larry Michou: Well, we have discussed it and it appears that under the grandfather clause that exists for all the carriers from the ATC were put in to effect. And the fact that when a new legislative process goes into effect giving us licensure or limiting it or whatever it is. We would have the authority to issue regulation that would offer grandfathering existing owner/operators. Now, how far we go back, how we determine who gets covered and who doesn't, of course, would be determined through the legislative process. You know, to sit here now and say that we are going to cover everybody back to 1976 we really can't do because we haven't... it would be in the regulation process how we determine who gets grandfathered and is working. That is one of the things that is supposed to be the problem is finding what would be covered, you could cover everybody who owns a truck, or would you cover everybody that's under contract or everybody who has been contract for a year or two years, whatever.

Number 039

Senator Kelly: We are probably better off sticking something in the legislation that will at least give them some guidelines as to what we want to see. Obviously, they got trouble.

Number 041

T.J. Thrasher: How do you say, you know... What we would like to see is that it be referred back to the Senate Transportation Committee or the Senate Labor & Commerce so that proper public hearing can be made and that input can be, and the amendments to word will not. As it stands, it is not going to correct, this piece of legislation is not going correct the problem and that's is our point. Not that we debate the problem.

Number 046

Senator Kelly: Okay, normally we don't refer something back from the Rules Committee and you know this is a pretty fair public hearing in itself and I don't think you're going to get much more into it if you take it back to another Committee then it will receive today. I mean, we have several owner/operators, we have a couple of other

major trucking firms, we have the Executive Director of the Alaska Transportation Commission here. I think we have a pretty good cross section, so... Any questions. Thanks, T.J.

Number 052

Senator Fahrenkamp: This will still going to the House for further hearing. I'd like to see as good a bill as possible.

Number 055

Senator Kelly: Now, is there anyone here that spoke before that wanted to speak again. Now if we could please keep it very brief the second time around. Ted Harris, I believe. Right?

Number 057

Ted Harris: Yes, my name is Ted Harris and I have here a (indisc.) book that was given to me by ATC. It 'ist the, it's not totally up to date but it is very recent, it lists all the common carriers and all the contract carriers in the State of Alaska. I can count 156 common carriers, many of which have authority such as Hildre Sand and Gravel Company in Juneau, Alaska. I have here Motor in Safety Lane, all they do is use towing vehicles. Impound and tow disabled vehicles and so on and so forth. I have Arctic Lighterage Company, which, you know what a lighter is, it transfers from ship to dock by lighter boat out of Seattle, Washington. I believe that although Mrs. Thrasher does represent possibly 400 carriers in the State. She misrepresented the fact that many of them are not engaged in transporting any kind of ICC freight, many of them are not engaged in transporting ATC freight. In other words, LTL shipments between Anchorage and Fairbanks. They're only concerned with transporting wrecked vehicles, transferring as in your harbor, cargo from ship to shore and so on and so forth like this. I can't see why she would qualify herself as representing 400 common carriers and in fact there are only 18 to 25 engaged, actively engaged in transporting the type of product that we have been talking about.

Number 079

Senator Kelly: Is there any body else? Tim?

Number 080

Tim Gunderson: Mr. Chairman, Senator Fahrenkamp. Again, I am Tim Gunderson. I was surprised at some of the testimony, especially from the particular carriers that

were here. I find it rather strange that those of the carriers that we have had probably the least problem with and who are probably being put, who would prefer to treat their owner/operators better than they are able to today. They're finding themselves in difficult situation competing against what we consider, we consider, a unscrupulous common carrier. One who utilizes the type of tactics that you have heard through the testimony here and in complete domination and control of its owner/operators. Inevitably, that type of control of a segment of people when you are in a competitive industry, causes the other persons engaged in that same industry to have to get on to that level in order for there to be supply a to the industry. In regards to the inferences that this is a labor issue, I think there has been enough testimony here to demonstrate that that's untrue. An owner/operator would be an absolute fool to strike himself when he pays his own wages out of revenues over which he has no control of the amounts. In fact what you find is that you have a union and you have a common carrier who meet together, negotiate a wage package which the owner/operator is going to pay. To infer that an owner/operator would strike in order to increase his wages, increase his payments into the various FICA, unemployment funds and workman's compensation is utterly ludicrous in my opinion. In situations where carriers have a mixed fleet as you heard described earlier, where they have Hershell company trucks with hired driver and owner/operators with their own equipment, you'll invariably find that the company truck is the truck that carries the highest paying revenue and the owner/operator is inevitably given the least paying revenue. Thereby giving... retaining the largest portion of the profits possible for the carrier itself. The owner/operator has utterly no control over the loads that he is going to carry. Only insomuch as the common carrier desires to allow him to have. There would be a lot more owner/operators to speak on this behalf. Many of those who are working would be afraid to step in to these chambers and testify in front of you because when they got home within a short period of time they would not be working. The

carriers, especially the unscrupulous carriers do not tolerate resistance in any way, shape or form. Owner/operators provide the entire capital investments demonstrated to you. They further pay all labor costs, all their repair costs, in many cases, the dispatcher in the company. His wages, whatever his labor cost is, is prorated, divided up amongst the owner/operators and subtracted from their revenues. In times even the light bill and the office space rent in these carriers was prorated and subtracted from the owner/operators. So that, in essence, all you had was a carrier who had a licensed monopoly to control a large volume of people and a large volume of investments of other people. We feel very strongly that SB 135 needs to go forward rapidly. As was expressed before, by the fall of this coming year we'll be in desperate condition. More and more owner/operators will go. I personally believe that the trucking Association represented here would like nothing better than to stall this bill back in.... nowing the shortness of the session. I think it is fairly common knowledge that this bill has c... forward out of a lot of energy from the owner/operators because of the desperation of the situation. To delay this bill or shove it back into another Committee with reaching such a close end to this legislative would spell doom to approximately half of the Alaskan owner/operators who have lived here for long years and have strong investments. I think that is about all I have to say.

Number 139

Senator Kelly: Thanks, Tim. She had her hand up first.

Number 141

Anonymous: I'll be very short. Mr. Chairman, I want to say one thing. If this just happens to be just an Interior Fairbanks problem, I'm kind of wondering, I think Senator Dankworth kind of felt this same way. Our people out of Anchorage that are owner/operators in about two and a half hours time brought about 259 messages into his office. You might like to check with him. Thank you.

Number 147

Senator Kelly: Yes, Shirley.

Number 148

Shirley Willford: Mr. Chairman, Bettye. Senator. One thing I would like to point out and this was brought up the other day. Mrs. Thrasher spoke that she represents some owner/operators. Basically she cannot speak for those owner/operators, it is true and one of them has been to our hearings and spoke very strongly. Ben Rule, his name is on her list, they belong to the Trucking Association so that they can have privy to the magazine that tells them what is going on in the industry. Basically this is why she has a lot of owner/operators on her list. She cannot represent them, he was hoping at the last hearing..... so he could bring this up but he isn't here today so I am speaking for him.

Number 163

Senator Kelly: Would you identify yourself again for the record, please.

Number 164

Jerry Colrud: Jerry Colrud. Mr. Chairman, one thing that was brought up earlier concerning figures like \$180,000.00 net profit. I don't ... \$120,000.00 and these ridiculous numbers sound like big money. I am not qualified to speak on this. We do have people in the room who are qualified to allude to this in at least some depth that I would like to have you ask for.... this is totally ridiculous. The cost of running that truck is astronomical.

Number 173

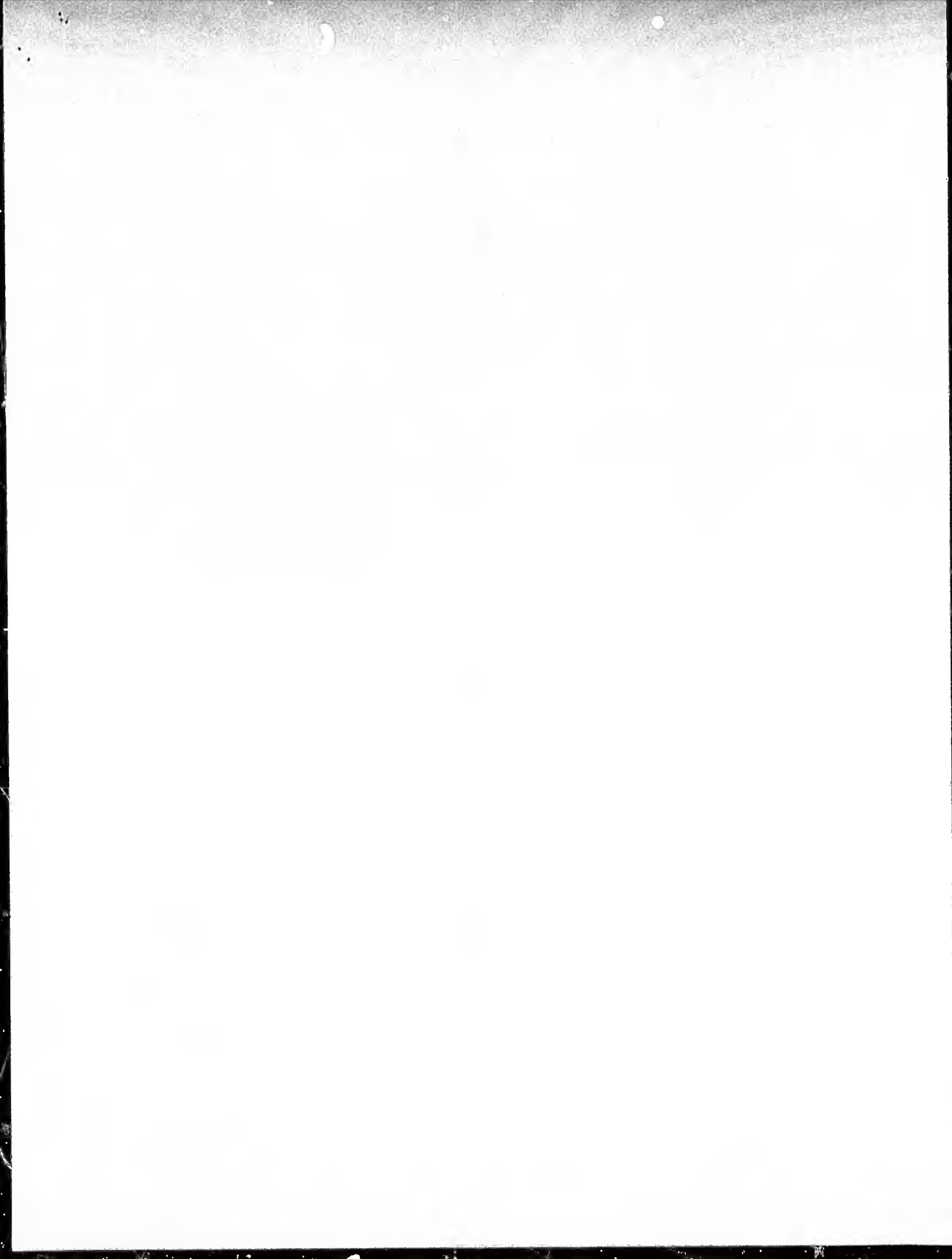
Senator Kelly: I think Jerry, that we all sort of understand that that was a gross figure. It might have been misstated in itself and nonetheless you would have to really get into it to determine what would have to come out of that figure before you take any food home.

Number 176

Jerry Colrud: Okay, my main point was, I wanted to make sure that you understood that and secondly I too subscribe to the Carriers Association for the very purpose that she just mentioned and what the rates were and what's going on. I am probably on her list, even though I have cancelled my subscription. Thank you.

Number 180

T.J. Thrasher: I need to make one thing clear. We are not the Alaska Carriers and we don't publish tariffs. So it is the Alaska Trucking Association that you are getting



that. So that's another association. That's the Rate and Tariff Association, that's all I wanted to clear up.

Number 185

Senator Kelly: What the Rules Committee will do then is with the concurrence of the membership is to develop a CS with the amendments we have already taken, handled today. I hope you could take a real quick look at it if you, maybe we could get a grandfather clause. It wouldn't take too long for it to say what they want to see in 1976 and that would give the ATC some guidance because if you don't have that, you know, there is no big fight going on at ATC about who gets in or who gets out and the regulations will take forever and (indisc.). Okay so will it that, when we get the CS we will schedule it for a floor vote and hopefully get it over to the House tomorrow for concurrence. I want to thank you all for coming. How many of you from... that are here from Fairbanks have ever come down and testified in front of the Legislature before. You have been down here before. The rest of you had. How many have not ever been to testify before a

Number 198

Senator Fahrenkamp: It is not so bad now is it?

Number 199

Senator Kelly: I think that shows an indication of just how strongly they feel on this issue.

Number 200

Senator Fahrenkamp: Hey, I gotta go home.

Number 201

Senator Kelly: Thank you for coming in and the Rules Committee is adjourned at 6:03.

COMMITTEE TAPE LOG 1982

tape no. A page 1

committee: Senate Rules Committee date 5/3/82 to _____

bill numbers: SB135 | | | | |

other information: Members Present: Kelly, chair, Ferg. Dankworth
Sen Ziegler

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	000	Kelly	Meeting comes to order 1:15 Intro. CS for SB135
	027	Pan	Testified in support of ATC Situation has gotten worse 135 is an attempt to alleviate some of these problems
	141	Kelly	Did you want both of these amendments made
	149	Ferg.	Move to adopt Pan's amendment No objection, Passed
	165	Kelly	Introduces petition
	195 thru 260	by Wilford	Moves through background Direct interference by state to ATC
	336	Kelly	Excuse witness
	346		Tom Gunderson, Pres AK Truck Supports 1st section SB135 Were asking to be regulated Common contract carriers can provide services and compete with Yours statistics regarding overhead
	4:55		

COMMITTEE TAPE LOG 1982

tape no. A pg 2

committee: _____ date _____ to _____

bill numbers:

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other information:

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	478	Kelly	Question How are they advertising?
	481	Munderson	Bill boards & other methods
	513	Moss	can you use 3 axle vehicles?
	520	Munderson	No
	525	Moss	You are at a disadvantage
	530	Munderson	Yes we are. We need to upgrade our equipment.
	545	Moss	Don't outside trucking firms have to upgrade their equipment?
	553	Munderson	
	599	Moss	-Comment on amendment
	615	Moss Mund.	Does this give you heartburn -I think
	622	Kelly	Submit amendments when you can
632	Steve Welford		I support SB 135, but doesn't want outside people to jeopardize his future employment
675		Kelly	Are there any questions?
689		Kelly	Mund.

COMMITTEE TAPE LOG 1982

tape no. A pg 3

committee: _____ date _____ to _____

bill numbers: [] [] [] [] [] [] [] [] [] []

other information:

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
705	Jerry	Cauldron	Outlines background. Might support of 135
742		Moss	Does this have an effect on your business? Lease or Lease as amend.
750		Cauldron	Yes
		Moss	You can't legally raise other costs to
		Cauldron	Yes, I think it's illegal ^{over your head.}
769	Ted	Harris	Strongly supports SB 135
806		Kelly	What are the change backs
810			Fed. employer taxes. FICA & health insurance are changed to our trucks.
825	George	Carter	Tried to negotiate new lease but no go.
862		Moss	Asks question
003	Doug	Carter	SIDE 2 -
	60	Kelly	Question Why do you upgrade up
	87	Moss	Question

COMMITTEE TAPE LOG 1982

tape no. A 129

committee: _____

date _____ to _____

bill numbers:

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other information:

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	108	C. Robillo	Dirt haulers have similar problems
	210	Moss	Question
	215	Robillo	Response. hourly rates
	266	Mary Ann	Fischer Husband has a \$4000 sick leave account and has fun given back only \$1,000 Put amendments in. Supports SB 135 in present form
350?	Larry	Michon	- ATC - leave & Bailie -
420		Moss	Question
		Michon	Answer
455		Kelly	
465		Michon	
470		Moss	Question
494		Kelly	Introduces
500	Buss	Parkter	Jurgen Thane. in opposition to SB 135. We aren't here to settle union problems or negotiate any contracts. See
			no reason to regulate some operators
	547	Kelly	are was are in fact getting into labor

COMMITTEE TAPE LOG 1982

tape no. pg 5

date _____ to _____

committee: _____

bill numbers:

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other information:

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	555	Painter	Yes, we think so.
	570	Kelly	Union or non union
	573	Painter	Union
	578	Mass	
590	Jim	Doyle	Weaver Bros. Owner Oppose SB 135 Need more time to work with lang. Not all points have been stated. We are a union shop
	637	Kelly	Is there a large difference between ^{managers} managers
		Doyle	Paid more
	647	Mass	Question
	651	Doyle	
	667	Mass	We hire Alaskans
			Do you advertise for out of state workers
681	John	Brichard	Oppose SB 135 4 star Terminal Cause of problem ^{Motor Carrier Act (1982)} Bill does not solve problems
733		Kelly	Question
746	Bob	Keefe	Outlines background. Speaks of grandfather rights. Why does ATC sanction transfers of permits with debts & not protect owner operator

COMMITTEE TAPE LOG 1982

tape no. _____ pg 6

committee: _____ date _____ to _____

bill numbers: [] [] [] [] [] [] [] [] [] []

other information:

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
807		Keefe	
811		Kelly	Why do they owe you money?
813		Keefe	They need some time. My truck checks are always short.
836		Kelly	What did ATC say.
840		Keefe	Let's protect everyone but carriers. Supports SB135.
880		Moss	Question of clarification.
		Keefe	This is an equipment problem.
912	Harry	Machon	No protection for carriers.
970		Kelly	Recess till 5:00 in Baton Rouge.
002	Dave	Clifford	Nothing to protect owner carriers. Support SB135 and supports amendments.
		Kelly	
	56	Moss	Asks question of Clifford.
		Kelly	Recess meeting till 5:00 at 3:00 pm.
000		Kelly	Reconvenes 5:07 Members Present
		Kelly	
		Moss	
022	George	Rouse	1
	80	Moss	He is a free at will, How.

COMMITTEE TAPE LOG 1982

tape no. pg 7

committee: _____ date _____ to _____

bill numbers:

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other information:

Sen Fahrenkamp

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	100	Moss	Appendix
		Rouse	Investment is minimal to company but not owner operators
	173	Rouse	Disparities between private carriers & owner operated vehicles
	249	Kelly	asks question
		Rouse	More advantageous to see owner operator.
	270	1 Kelly	Introduces Sen. Fahrenkamp
	278	Rouse	Not labor dispute, but problems will develop
	280		
305	Doug	Rudso	Strongly support SB135. Supports jobs for Alaskans. Need more time.
377	Bwayne	Powell	Introduces letter to Committee along with CC SB135 if enforced would be good.
	446	Fahrenkamp	
450	Mal	Sands	Strongly urge you to support SB138.
460			Carriers have become business Support in (or) next sec 1 not Sec 3

COMMITTEE TAPE LOG 1982

tape no. _____

committee: _____

date _____ to pg 8

bill numbers:

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other information: _____

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	522		Sec 3 might allow private carriers to manipulate me
			Sec 3 deleted
	540	3yback	- Sen Paris
	556		This is not a labor problem.
568	T.J. Thrasher		Alaska Trucking Assoc. Do not support SB 135 We recognize problems in Intern
	599	Kelly	Question
	601	Thrasher 3yback	They qualify only under owner operation Have ATC grandfather current carriers.
		Kelly	Who classifies?
	625	3yback	Anyone who operated 2 yrs
	633	Kelly	Why does ATC decide
	638	3yback	Was not appropriate.
	655	Kelly	How does ATC know who's qualified
	660	Murderison	W
	004	Kelly	Side A Tape 3 Question
	020	Thrasher	Our input has not been solicited
	043	3yback	Yes there was a hearing.
	061	Marchon	Grandfathering will be determined by regulation
	115	Thrasher	Referred to Com. or Trans Committee for further testimony

Date _____

SENATE RULES COMMITTEE HEARINGS

WITNESS SIGN-UP SHEET

Name	Address/Phone	Representing	Do you wish to testify?
✓ Shirley Willford	1 Alston Fairbanks	Owner Operators	yes
✓ Shirley A. Willford			
✓ ^{Gardner} Shirley A. Willford	704 Selcha Fairbanks, AK	Alaska Truck Owner-Operators Cooperative Association	yes
LARRY MICHOU	^{A.T.C.} Suite 1000 338 DECALI Anchorage, Ak.	ALASKA TRANSPORTATION COMMISSION	YES
✓ Alvin Willford	S.E. Box 50333 FAIRBANKS, AK	ALASKA OWNER OPERATORS	YES
✓ Jerry Colrud	Box 34 Healy AK 99743	Alaska Truck owner Cooperative Association	yes
✓ Ted W Harris	512 Box 71140 FAIRBANKS AK	ALASKA TRUCK OWNER OPERATORS CO-OP ASSN	yes
✓ George Carter	PO Box 55121 North Pole AK	Owner/Operators	Yes
✓ DOUGLAS CARTER	North Pole AK	Owner/Operator	Yes
✓ Jack Whipple	1248 Zurich Dr Anch AK 99507	owner/operator	yes
✓ BOB URBON	501 ERSEG ST FBKS AK 99701	OWNER/OPERATOR	YES
✓ Mike Urban Urban	AK Box 3071	1/2 owner RAVEN TR	
✓ Urban	Idaho ak 9 1 Fairbanks, AK	Professional Piloting Alaska Owner Operator	See YES
✓ Bob Keefe			yes
✓ Gordon Rouse	Fairbanks AK 4793361	Northern Tundra Research LTB	yes
✓ GLENH KOOT	ANCHORAGE AK 349-2413	GETE CONSULTING	
✓ David Glover	^{Glover} Doty Jct AK FBKS AK	Polar Fuels	yes
✓ ^{Waklin} David Glover		owner/operator	YES
✓ Doug Widge	SR Box 60378-A FBKS AK 99701 488-2143	OWNER/OPERATOR	Yes
✓ Duane F. Powell	1307 19 th AVE. 456 FBKS AK 99701 2155	O/C No Country Pilotserv	Yes
✓ Mel Sandwe	51 BOX 60584 488-2366 Fairbanks AK 99701	OWNER/OPERATOR	Yes
✓ A. Russell Painter	3027 RAUPERT DR Anch. 99501	Independent Transport	Yes against
✓ C. Robello	1000 E 5321 Anch 99507	Owner Operator	Yes

S B

8 2 4

SENATE RULES
STANDING COMMITTEE
March 30, 1982
9:00 a.m.

Members Present: Senator Tim Kelly, Chairman
Senator Bob Ziegler
Senator Frank Ferguson
Senator Ed Dankworth
Senator Jay Kerttula

COMMITTEE CALENDAR

SB 824 "An Act relating to sale and delivery of in-bond merchandise at international airports."

WITNESS REGISTER

Cliff Groh, Attorney
LIZ
711 "H" Street
Anchorage, Alaska 99501
Position Statement: Testified on behalf of LIZ Duty-Free.

Bob Ward, Commissioner
Department of Transportation
and Public Facilities
Sommers Building
226 Seward Street
Pouch Z
Juneau, Alaska 99811
465-3900
Position Statement: Emphasized the support of protecting 25% of the revenues brought into International Airport revenue fund.

Chuck Becker
LIZ
833 West 19th
Anchorage, Alaska 99503
Position Statement: Emphasized free enterprise.

James L. Thompson
121 West Fireweed, Suite 207
Anchorage, Alaska 99503
274-7630
Position Statement: Expressed concern of SB 824.

Marty Farrell, Attorney
Duty Free
Anchorage, Alaska 99501
Position Statement: Represented Duty-Free.

Joe Lyons, President
U.S. Division of Duty-Free Shoppers
Duty-Free
Anchorage, Alaska 99501
Position Statement: Gave business background and the economics
of Duty-Free.

Margo Armistead
LIZ, Limited
Anchorage, Alaska 99501
Position Statement: Explained destination points of sale of
goods as not being directly competitive.

Robert F. Gillin
Inter-money Marts
P.O. Box 6669
Anchorage, Alaska 99502
Position Statement: Emphasized preventing manipulation of
foreign currency exchange prices.

PREVIOUS ACTION

SB 824 Please refer to Senate Finance on March 19,
1982 when the bill passed from Finance to
Rules.

ACTION NARRATIVE

Tape #0001
Recording
Number 0001

Senator Kelly: The Rules Committee meeting
will come to order, let the record show that
there is a quorum present and Senators
Ferguson, Ziegler and Kelly are here. We
will start off the testimony on SB 824 with
Mr. Groh.

Number 0035

Cliff Groh: Hi, my name is Clifford Groh, I
am the Attorney for LIZ Duty-Free. LIZ
Duty-Free opposes the enactment of SB 824
for a number of reasons. First of all the
Governor's letter says that there will be
competitive bidding on an exclusive

contract. SB 824 does not provide for competitive bidding, its a little like the old adage I can trust you my friend, but would you please shuffle the cards. It really wouldn't be very difficult to add a competitive bidding requirement. And I suggest, respectively suggest, that that be added. Number 2, the bill obviously creates a monopoly. Common sense dictates that competition would increase the revenues of the state. Amongst other laws of course, the Sherman Anti-Trust Act prohibits monopolies, and let me very briefly discuss what has occurred here. The State of Alaska a number of years ago entered into an exclusive contract for the operation of in-bond warehouses and duty-free shops in Anchorage. In my opinion that exclusive contract is in violation of the law. The contract has been extended for various periods of time, LIZ duty-free contrary to the assertions of many, believes that the delivery of goods to the airport is not in violation of that contract, LIZ Duty-Free has not been stopped from making those deliveries. Very briefly, the history of LIZ, it has eight shops in Paris and operates in Beverly Hills. It plans to open three stores in Anchorage. Obviously they are different points of sale, than presently occurred to duty-free shoppers facility in Anchorage. LIZ has spent approximately \$250 Thousand dollars getting established in Anchorage. It has created new jobs there, contrary to some assertions it is not an operation being run out of a back door of a garage someplace. It has received all of the necessary permits from the federal government and from the United States Customs Bureau. It is licensed to do business in Alaska, it employees a substantial amount of people. This bill if it is passed will put the company out of business. Particularly because it provides for exclusive sale and delivery on "page 2, section 2". I respectfully suggest to you, and I have sat on the other side of the table and I know what it means when somebody says that the State may be liable in an inverse condemnation situation. But LIZ Duty-Free obtained its licences from the federal government in December, it notified the State of Alaska that it was going to operate, and notified the State the way in

which it intended to operate. It has been in business since then, and now by virtue of SB 824 it is going to be put out of business. I think the State will be legislating, if it passes SB 824 in its present form, a company out of business. I suggest to you that if that occurs, that company has a claim against the State, allowing to have it get started and then being shut down by virtue of legislation. Let me urge you gentlemen not to be hasty. First of all to my knowledge the legislature doesn't even have copies of the existing exclusive contract. No member of the legislature nor the staff has studied the records to determine the facts surrounding the existence of the present exclusive contract. At present the exclusive contract provides for payments to the State of a minimal rental or a thirteen and three quarters percent (13 3/4%) whichever is greater. The payments in Hawaii are twenty percent (20%), that's six and a quarter percent (6 1/4%) difference on potential sales approximately 30 to 35 Million dollars, that amounts to a little bit of money. I don't think that passage of the bill without studying the existing contract and without understanding everything that has occurred is in the best interest of the State. The existing exclusive contract provides for quarterly payments to the State, every single contract that I have been able to find, and I'm sure that somebody else might find one that isn't the case, that every other contract provides for monthly payments. The other reason I urge you not to be hasty is that Hawaii spent \$50 Thousand Dollars on a Coopers and Lybrand study to determine whether monopoly or what method is the best method for the leasing of space at the international airports. That study indicates that of the various options that may be available to the State, a monopoly is the poorest choice. Very specifically I would suggest certain amendments be prepared for the bill. And I refer to the bill in particular to "page 2, line 21". It presently says the department will allow the sale, shall allow the sale and delivery. I think in order to accommodate off-site operators you ought to break that down, and refer to "department which shall allow the sale, the delivery";

to "the sale or delivery of in-bond merchandise of the international airport, only by contracts"; strike "exclusive" and insert after "competitive bidding", "in a manner provided by law". Obviously section (b) should not be included at all. To the extent that LIZ Duty-Free is presently operating, it is only delivering at the airport. Its sales are made in other places, and it will continue to make sales at other places and I represented at previous committees for purposes of delivery, it is willing to pay a fee to the State. Paragraph (c) should establish certain standards, "page 2, line 28" suggesting that the contracts taking into effect the revenue requirements of the State, that they maximize revenue. I might also respectfully suggest that there be added a maximum time period for the contracts. Again, I trust everybody but lets shuffle the cards, lets put a term in here during which the contracts will remain in effect. As to the remainder of the bill, I think the word "exclusive" should be stricken in each instance. I thank you for the opportunity to appear before you and I will answer any questions.

- Number 0230 Senator Kelly: Thank you Mr. Groh, is there any questions from the members of the Committee for Mr. Groh.
- Number 0235 Senator Ziegler: Not at this time, but I assume he will be available for questions.
- Number 0240 Senator Kelly: Yes sir.
- Number 0241 Senator Kelly: Next to testify before the Committee will be Mr. Chuck Becker, would you identify yourself for the record please.
- Number 0375 Chuck Becker: My name is Chuck Becker. I'm here representing LIZ Duty-Free Limited of Anchorage. I would like to briefly highlight my background because it is germane to the message of this testimony. From 1972 to 1979 I was the Principal of a firm called "Man in Washington" it is an affiliate of the "National League of Cities" and the "United States Conference of Mayors". For another seven years I was Washington D.C. Representative with the cities of Phoenix, Arizona; Albuquerque, New

Mexico; and Anchorage, Alaska. Based on that experience coupled with my experience in the Industrial Development Division of Teledine Packard Bell, former Mayor of Anchorage George Sullivan brought me to Anchorage to run his new office of Economic Development in January of 1980. I left my position as Economic Development Director of Anchorage two months ago and established a new Alaska corporation called "Man in Alaska". The firm specializes in providing business services to foreign and domestic corporations seeking to relocate or to establish operations in Alaska. I am also the Chairman of the Alaska Economic Development Forum, Business and Development Marketing Committee, and Co-Chairman of the Anchorage Chamber of Commerce Industrial Attraction Committee. A product of my rather extensive experience in industrial and economic development is a firm belief and commitment to the free enterprise system that we are blessed within these United States. That system and only that system allows for upward social and economic mobility for each and every man, woman, and child in this nation of ours. The free enterprise system holds a promise of better tomorrow for all of us and to our children. It's antithesis, socialism, or worse communism, where the State controls enterprise, not only degrades the human spirit but propels those nations which adopt that system into an economic marass due to the under productiveness of their unmotivated work force. State control of the elements of commerce and production, relegates those countries which have adopted such a system to an inferior competitive position in world markets and the citizens of those countries to sub-standard life styles. Today you are considering a bill which if enacted would be an assault by the government of Alaska on the free enterprise system. The wool has been pulled over too many sets of eyes to have allowed SB 824 to progress this far. The only justification for the proposed of this bill is the potential loss of revenues to the State in the existing contracts on duty-free sales is not allowed to continue. I say balderdash. The fundamental principle of the free enterprise system, the system which over time has made our country a great nation,

competition, I'm sorry, is a fundamental principle of the free enterprise system. In Hawaii where such competition was allowed in duty free sales, two vendors bid up the rents to payments of 20% on gross sales. Had Alaska had the same good fortune brought by competition last year an additional minimum \$2.5 Million dollars would have accrued to the State. Two authorized vendors of duty free merchandise in Alaska would actually increase revenues derived by the State. By first causing the percentage of gross sales to more accurately reflect true market rates. Secondly, points of sale at the International Airport terminals would be increased exposing the consumer to more opportunities to buy. Thirdly, LIZ Duty-Free has already negotiated three additional show rooms in downtown Anchorage and plans to expand these operations and other major tourist cities throughout the State to further increase exposure opportunities. Fourth, the jobs created by this new operation will number 50 on May 1st, 1982. And, if allowed to compete at the new International Airport terminal, will exceed 150 before the end of the year, all of which will go to Alaskans. Finally, the sales motivation and efforts will increase if the present monopoly is eliminated. The fact readily attested to by successful sales persons in any competitive line. The bill if enacted would create a monopoly and the sales of duty-free merchandise at Alaska's International Airports. Worse, if it can get worse, the bill would drive LIZ Duty-Free out of business in Alaska effectively eliminating competition for the State's exclusive contract. The bill seeks to institutionalize through legislation the much criticized practices attended to sole source contracts. To conclude, I would like to briefly quote from an article which appeared in Hawaii's Star Bulletin last April on a subject identical to the one before you today. "Legislative bills that would squeeze out competition in the vastly lucrative Duty-Free shop business apparently will be embalmed and quietly laid to rest at least for this year. For the past two weeks a Representative of one of those Duty-Free operations has orchestrated a quite drama in the Legislature hoping to push through a new law that would grant exclusive rights in the

Duty-Free shop business, and squeeze out a third firm which is currently seeking to enter the market. The Duty-Free shops are a fantastically profitable enterprise with current sales volumes of \$170 Million dollars a year. An amount larger than the volume of business of any other retailer in Hawaii. Over the next seven and half years Duty-Free shops are expected to generate a total of 1.9 Billion dollars in sales and pay the State Government up to \$400 Million dollars in fees for the privilege. We would respectfully ask that this body take action in the same manner as did the Hawaiian Legislature and embalm and quite lay to rest SB 824 or adopt those amendments as proposed by Mr. Groh. Thank you for the opportunity to appear before you today, and I am prepared to answer any questions.

- Number 0450 Senator Kelly: Thankyou Mr. Becker. Yes, Senator Ziegler.
- Number 0469 Senator Ziegler: Mr. Becker I don't think we have had the pleasure of meeting, but your testimony is very interesting. What happens if the bill is embalmed, as you urge.
- Number 0470 Mr. Becker: We would hope that it would remain in that fashion, we would hope ultimately that LIZ Duty-Free would be allowed to open up operations at the new Anchorage International Airport terminal.
- Number 0475 Senator Ziegler: By so doing, you say that you and the other organizations will both be allowed to operate, you will increase or enhance state revenues ultimately.
- Number 0479 Mr. Becker: Yes sir.
- Number 0481 Senator Ziegler: That's your basic argument.
- Number 0483 Mr. Becker: Yes, I firmly believe that.
- Number 0485 Senator Kelly: Senator Dankworth.
- Number 0487 Senator Dankworth: If the bid, and I understand that these bids come up, I don't know when Duty-Free's present bid expires I believe that it is in 1984.

Number 0495

Mr. Becker: I am not sure.

Number 0497

Senator Dankworth: When it was last up would everybody really have an opportunity to bid on this at that time, or does anybody have anything exclusive beyond that you see Chuck, beyond the contract they bid on. As I understand it Duty-Free went out and won a bid on a competitive bid and they have it. And that opportunity was available both to LIZ if they wanted to bid, Marriott, or anyone else who wants to get into that business and it will also be available to them in 1984 if they want to go out and bid on it.

Number 0510

Mr. Becker: It is my understanding that enactment of the bill would drive LIZ Duty-Free out of the business in the State of Alaska pretty effectively eliminating future competition. The bid if the bill would allow for competitive bid, is my understanding, is earmarked for those firms having a minimum of three years experience in Duty-Free operations in the United States. It pretty well locks in the present holder of the contract.

Number 0530

Senator Dankworth: My question Chuck is this, its true that certain things at the International Airport go out to bid. That's nothing new, that's been going on all over the world and these things did go out, I haven't listened to Commissioner Ward, but I assume this went out as a competitive bid and Duty-Free won. Between then and the next time they bid it seems like that there's the opportunities are still going to be available for LIZ to bid next year when this comes open to get the opportunity to do that. And I don't know that I would go as far as you have in saying that we would just wipe out a company because they weren't available to bid last time and they will be available this year, but they would like to get in a year ahead of time or a couple of years ahead of time. You got to convince me. There are a lot of airlines and everyone else who go out to bid on using airports.

Number 0540

Mr. Becker: Senator if the opportunity to bid competitively is presented, LIZ would

certainly be prepared to bid competitively.

- Number 0550 Senator Dankworth: It will occur but I don't know what the dates are, wouldn't that be the time for LIZ to try to get into this business.
- Number 0560 Mr. Becker: Yes I would certainly think so. However, in the mean time the bill if enacted would put a halt to the operations of LIZ in Alaska.
- Number 0565 Senator Kelly: Is there any further questions of Mr. Becker. Senator Ferguson.
- Number 0570 Senator Ferguson: You mentioned a newspaper article some time back could you give me the date of that.
- Number 0575 Mr. Becker: April 19, 1981.
- Number 0576 Senator Ferguson: Do you have a copy of March 28, 1982.
- Number 0578 Mr. Becker: No, I do not.
- Number 0580 Senator Ferguson: It says "Duty-Free monopoly bill clears to House."
- Number 0582 Mr. Becker: Things have changed.
- Number 0583 Senator Kelly: Does anyone really know the status of this bill in the Hawaii legislature. Mr. Farrell.
- Number 0584 Mr. Farrell: The newspaper clipping that Senator Ferguson had from two days ago states that the bill has gone through the Hawaii State Senate. A bill identical or close to the one in front of you, has now gone through a joint hearing between the House Transportation Committee and the House Consumer Protection Committee and is likely to be on the floor of the House to press the buttons before the Hawaiian Legislature.
- Number 0589 Senator Kelly: Thank you. Is there any other questions for Mr. Becker. Next to testify is Mr. Thompson.
- Number 0590 Mr. Thompson: My name is Jim Thompson, as a preface to my testimony today that I would like to point out that I have no connection with the parties involved. I don't even know them. I am currently leaving state

employment to start a private company which firm has no connection at all with the Duty-Free business. I am here as a citizen and a constituent who believes in the free flow of commerce and am very concerned about the trend in the courts and legislature today to displace a free enterprise system. Where to pen the words to the SB 824 "to displace unfettered business freedom". I am concerned about actions such as proposed in SB 824 that could result in feeding the expansion of tourism spending and supporting Alaska's role as a free trade crossroads in the world. This bill represents a great threat as it sets up one more State controlled monopoly, which could lead to the lessening of state revenues and basically do the opposite of creating new jobs in the Anchorage and Fairbanks areas. Now for specifics: Sec. 1. of this bill sets out the reasons for the proposed legislation, I will comment on each point in the order posed and ask that you follow along in the bill. Subsection (a), I don't think that anyone can quarrel with this general statement. Independent concessionaires should bear some of the costs of running the Anchorage and Fairbanks airports. Subsection (b), we all agree tourism should be encouraged. However, this section infers that revenues would decline if free enterprise were allowed to exist. This is a totally false assumption. That the market is there any economist will tell you that competition is much healthier than a monopoly in terms of growth. Actually, fair and aggressive competition should lead to an increase of revenue to the State plus creating more jobs in the Anchorage and Fairbanks areas as well as providing a healthier price structure for us lowly consumers. I question whether the Division of Tourism has done a study on this so called decline in revenues and as of last Wednesday they had not and had not been requested to do so. Subsection (c), this is pure bureaucratic bullfeathers as far as I'm concerned. I, and I am sure that members of this committee have never witnessed increase quality in service in any area as a result of government intervention or control. Rather this comes from healthy competition. If any firm offers inferior products at excessive prices it will not survive in a

free market place. However it can under a government monopoly as proposed because it will be the only game in town. If a firm does sell faulty merchandise or is fraudulent in its practices there are other areas of State government that already have authority, that being the fraud unit of the State Troopers and the Consumer Protection Agency of the Attorney Generals office. I ask this committee why put additional layer to bureaucracy, regulations, and costs in this area. Especially when they are totally unnecessary and redundant. Subsection (d), this part really concerns me as a citizen. In this subsection the state is saying that they have made exclusive contracts and now they are coming to the legislature to authorize their premature actions. It appears as if the State is asking you to cover up its goof of making possibly illegal and statutorily unauthorized commitments, and to unscramble their scrambled eggs. If I were the legislature I would be darn mad at the Department of Transportation and the State for usurping legislative authority in this area and then coming to me and asking for my infermoto after the fact. Subsection (e), this section states that it is the State's policy and intent to displace "unfettered business freedom in this area. Unfettered business freedom appears to be just another word for free enterprise. This infers that it's the States policy and intent to displace free enterprise. Maybe this is so in Sweden, Russia, and France. But I hope not here in Alaska. But as a believer in our economic system and opponent of State controlled industry, I am appalled and beyond scared of this trend. I am glad that this legislative body will be given the opportunity to stand up to such insidious intrusion as to take away of our basic rights as consumers, business people, and citizens. That being a right of a free and open market place. I personally would hate to see the State tell me that I could only buy my house through the exclusive realtor in Anchorage, authorized by the Department of Commerce to buy my television set from the State approved electronics store, or have my teeth cleaned by the exclusive State controlled dental clinic. We are not near there yet, but this proposed legislation helps open that door just a little bit wider. This

proposed monopoly, and I do point out in reading the bill that there is no provision for competitive bidding, there is for exclusive contracts. If this proposed monopoly is set up it's apparently being promoted to protect a foreign self interest group that wants to keep its lock on a \$50 Million dollar plush business in this State. And also to cover up a possible Administration error. I do not feel it is worth the price. I ask that this committee and the Senate reject the proposal for the best interest of the consumer and the business community of Alaska. Especially in an election year this is your opportunity to show the people of Alaska just where you stand or sit on the issue of the free enterprise system. Thank you for this opportunity to address the Committee.

Number 0600

Senator Kelly: Thank you Mr. Thompson. Are there any questions from the Committee. Next to testify is Mr. Robert F. Gillin.

Number 0602

Mr. Gillin: My name is Robert Gillin and I am Vice President of the Inter-Money Marts. It is an Alaskan corporation founded in 1979. Our firm is a family run business and employs between 10 and 15 employees depending upon the time of the year. We pioneered the foreign currency business in Alaska and more precisely Anchorage International Airport. And have been successful to date despite considerable competitive pressures and initial opposition to entering the business. I have lived in Alaska for 15 years, I am a constituent of Senator Dankworth's, I live one block away from him. I would like to thank you gentlemen for this opportunity to comment on SB 824 introduced by Governor Hammond. A bill which seeks to effectively exclude any other in-bond merchandise firm from infringing on the present in-bond concessionaires exclusive right to sell and deliver in-bond merchandise at International Airports in Alaska. I did not come here today to comment on the legality or constitutionality of the State of Alaska's granting of exclusive contracts at International Airports. Other parties more qualified will, I am sure, address themselves to those issues. I believe that

the Governor is taking the legislative initiative at this point that is logical and consistent with the legal concept of exclusive contracts. For the State of Alaska to issue an exclusive contract and permit third party interlopers to approach untrampled on the specific rights granted under the contract, would greatly diminish the benefits accruing to both parties to the contracts. In this instance the State of Alaska airport revenues and the exclusive contract holders gross sales and inevitably profits. Today I seek your assistance either attaching a rider to the present bill, or by a separate bill to exclude third party interlopers from weakening the exclusive foreign currency contract issued to our firm on April 8th, 1981 by the State of Alaska. Our position coincides with the current Duty-Free concessionaires position and that we acquired an exclusive and absolute right to all foreign currency business at Anchorage International Airport new satellite terminal in exchange for the substantial sums of \$252 Thousand dollars over three years. Which we shall be paying the State of Alaska on a monthly basis. To permit third party middle men to buy and sell foreign exchange under the guise that it facilitates in-bond gift shop or other sales is a spurious argument that would permit these middle men to reap wind-fall profits from these foreign exchange transactions which are properly ours, without having to report or pay to the State the required fees as the official foreign exchange dealers are required to do. Likewise it encourages fraudulent sales reports based on arbitrary and artificial foreign exchange rates. Inter-Money Marts in Alaska has the trained personnel, the sophisticated foreign exchange computers, and has the financial resources to handle any and all foreign exchange transactions at the new terminal as we have been doing for the past several years in the present terminal. Since November 1979 we have been operating a foreign currency exchange in the customs areas in the International Airport. From our experience and observations we know that we are only scratching the surface of the foreign exchange potential existing in this International Customs area. A very high percentage of all sales both in-bond

and gift items are transacted in foreign currencies. It is our estimate that the total buy and sell transactions can be counted in the tens of millions of dollars on an annual basis. Our firm is only participating in only a small portion of this business at the present. The records of the State of Alaska's airport accounting offices in Anchorage contain no reference to these transactions or revenues paid to the State for profits from the sales of these large sums of foreign exchange. Our firm would be willing to open up our books to the State of Alaska, auditors or accountants to prove the above. I believe in all fairness and equity that the State of Alaska should stance this hemorrhage of revenues once and for all. And demand strict accountability of all foreign currency sale revenue earned at International Airports at this time and restrict all foreign exchange purchases, sales and exchanges, to this states exclusive foreign exchange dealer from the date of opening of the new Satelite terminal in Anchorage. This is not the first time that I have brought this to the attention of the State of Alaska, I brought, one of the bid documents were made available over a year ago. I studied the bid documents and based on my analysis of the bid documents I sent several hundred dollars worth of telegrams to the administration officials and to some of you. Pointing out that there were certain inconsistencies as far as I could see it, I got very few replies. On March 19, 1981 I wrote to the Deputy Commissioner Ryan, pointing out my problems with the bid. I received no written response received some oral response after persisting in my requests. As recently as March 15, 1982 I wrote to Mr. Milsap pointing out these potential problems which I see as coming about when the new Airport opens. Frankly gentlemen we would have a very tough time making a profit covering our overhead unless we get that 80 or 90 percent of the foreign currency business that is passing us by or will pass us by under the present way that the State is doing business.

Number 0620

Senator Kelly: I am not quite clear about what you say Duty-Free is doing. Are they actually exchanging currency, or are they

taking currencies in lieu of goods. Exactly how is the exchange being made.

Number 0623

Mr. Gillin: I believe they can speak for themselves. They are here. Their point is, is that they are exchanging foreign currency for their in-bond merchandise. That is partially true, if a Japanese tourist comes in with a 10 Thousand yen note, which is very common which is worth about \$41 dollars and wants to buy a \$9 dollar bottle of Johnny Walker Black Label. He does not get 8 Thousand yen in return, he gets \$32 dollars. So in fact a major portion of that transaction is strictly a foreign currency into dollar transaction and there is a partial exchange there. The other point is that they are buying foreign currency in that instance, and if you are buying a foreign currency you have to sell it. And normally being a profit making organization they would attempt to make a profit when they sold it. If they do then my question is, as I am, or will be required to pay a fee on my foreign currency profits, why aren't they. The other point is we are dealing with a rather large firm at Anchorage International Airport and we have been dealing with them for several years, we buy their foreign currency on a daily basis. And they consider any profits that they make from those sales as miscellaneous income and they report it to the State. I do not want to be in the Duty-Free business, I don't want to deal with Chivas Regal, I want to deal with foreign currency.

Number 0630

Senator Kelly: Thank you. Are there any further questions for Mr. Gillin.

Number 0635

Senator Ziegler: I am going to have to leave in a moment Mr. Chairman but I would like to ask Senator Groh a question or two before I do.

Number 0640

Senator Kelly: Thank you Mr. Gillin.

Number 0642

Senator Ziegler: Cliff, is it your assertion, that the existing contract was illegally arrived at.

Number 0645

Mr. Groh: Yes sir it is.

Number 0657

Senator Ziegler: Fine. Then before you

explain upon... It is your subsequent assertion that by enacting this bill as written we will in effect be ratifying that illegal act. Do I get the essence of what you have been telling us.

Number 0660

Mr. Groh: That is precisely correct. You'll be ratifying it, you will be granting immunity to the people by ratifying it. And the contract was entered into sometime in the 1970's, its been extended. As I suggested in my testimony you don't even have copies of it. There are various audit reports concerning that contract, you don't have copies of those. I am told, I do not represent this to be true, that there are approximately \$5 Hundred Thousand in default to the State at the present time. In addition to that I would like to answer one other question that Senator Dankworth raised if I may.

Number 0663

Senator Kelly: Did you have any other questions Senator Ziegler.

Number 0665

Senator Ziegler: I do but I can wait till you address Senator Dankworth's.

Number 0667

Mr. Groh: Senator Dankworth, the difference in the operations is when the contract was entered into in the 1970's there was no competition, they got it, it has been extended for periods of time. It expires now in 1984. But the difference is, the difference between sale and delivery and sale. The point of sale is LIZ Duty-Free is either in Europe or Los Angeles. Those goods are moving in foreign commerce. The State has never stopped us and allowed us to get started and we have spent \$250 Thousand dollars in getting started and we delivered to the belly of the airplane. Now, since those goods are in foreign commerce they have not stopped us. This bill though will stop us and put us out of business. That's my argument, but the difference between the existing system and the one we are using is that we deliver to the belly. Our point of sale is different, and we are willing to pay a commission on the basis of that delivery. But they will not enter into an agreement with us, but they won't stop us either.

Number 0675

Senator Dankworth: I realize that you have

to run, but I wanted to ask just one more question in that regard. When you first started that business here, when it came in, was there any negotiation or talking with the administration that they told you not to do it or to do it or that it was OK and go right ahead.

Number 0700

Mr. Groh: They never said do it, they never said do not do it. We advised them all through out that we intended to do it and what our proposed operations were, and what our permits from U.S. Customs said that we could deliver and we've been delivering all this time. And nobody has ever stopped us, but this bill will stop us and put us out of business.

Number 0720

Thank you Mr. Groh. It is the intention of the Rules Committee to take a break now till right after session. So we will recess and try to get testimony finished up by noon today. My guess would be 11:00 to 11:15 a.m. when we come back. So I hope that you will all be able to return at that time. The Rules Committee is recessed.

Number 0770

Senator Kelly: Commissioner Ward would you please come and address the Committee.

Number 0772

Commissioner Ward: Thank you very much Mr. Chairman and members of the Committee. My name is Bob Ward, Commissioner of Department of Transportation and Public Facilities. If I could, Mr. Chairman. I will talk strictly about the bill and I will not address questions raised by Mr. Money Market unless there are questions from the Committee on that issue. As has been mentioned before, or alluded to, this bill would put LIZ out of business. Perhaps that characterization is not completely true but it's close. What it is specifically designed to do is to stop the operation that they are presently engaged in now. If that puts them out of business, that puts them out of business but it is to stop the operation that they are involved in now. The Department of Transportation and Public Facilities probably contrary to some opinion does not generate much legislation for the Governor to introduce as part of his administrative package. And it is probably good reason that we don't because he doesn't let us help him introduce much. The fact

that this was introduced and that we prevailed on him to do that, this late in the session, is a pretty definite clue to the importance that the Department places on it. When LIZ Duty-Free first contacted the State and they have never contacted me directly but my people in Anchorage, and they have not lied to me yet that I know of, they were never favorably received. We were defending the agreement, the contract, that we have with Duty-Free because the agreement is mutually beneficial to them and to us. When they approached us with the thought of sales elsewhere than at the airport with the merchandise going directly into the baggage of the airplane. They were told as bluntly as Pat Ryan could tell somebody and those who know him know that that is fairly blunt. That they were not welcome, we did not want them, they were cutting into the revenue generating potential at the airport and that we were going to do everything that we could do to stop them. Now when we went to the Department of Law to say how can we protect the contracts that we have in place. How can we protect 25% of the revenue stream for all the International Airport Revenue fund. We were advised by the Department of Law on their best advice that there was in fact no way to stop them that they could think of that would be iron clad except this bill. That is why the bill is before you. It is also absolutely no surprise and we have no disagreement with the fact that the State could receive more revenue from Duty-Free. As a matter of fact in all fairness to everyone Duty-Free approached us as long ago as least two years maybe two and a half to three years ago to ask for an extension, a negotiated extension on their present contract, because of the new satellite terminal was going to come on line. And that would give them the opportunity to develop the facilities if they could just go in and do it, and have a negotiated extension and they would be willing to pay some more money for it. We had told them then and repeatedly since then until this day, no, we were going to, when their contract expired we were going to competitively bid the Duty-Free concession at the International Satellite Terminal. And we are in fact going to do that. Their contract expires in 1984, as it has been

discussed here. We planned and have already notified people who we think might be interested in the competitive bidding that we were in fact going to advertise the competitive bid for the Duty-Free concession. And that effort will take place in 1983 prior to the expiration to the contract because we want to have it in place by the time their contract expires. There is absolutely no prohibition to LIZ Duty-Free from bidding on the concessions when that time occurs. In developing this legislation the exclusive provision was subject to question as we did develop it. The Department and the Governor did not particularly want to introduce legislation that could be controversial to start with. At a late stage in the session and not have as much support for it as possible. So we had hoped that we would have some friends in this committee, we do have some friends in this committee, its Duty-Free. Its an unusual arrangement for us because generally in many cases as they will attest and they can speak for themselves, they're on the other side. Because they wanted to get a little more out of this and sometimes we might be prepared or equipped or would be practical to give. The exclusive while maybe questionable as whether it is absolutely necessary or not. I have talked personally with the head of the Transportation Department of Hawaii. He said that it is very important, my feeling was as Cliff suggested earlier, Cliff Groh that is, that you could take the exclusive out of it and just cover by contract any in-bond merchandised sales would be covered by contract with the state. I felt at one time that that might be enough. I have been advised by the people in Hawaii that it is enough, that if you wanted to stand the law suits that are going to occur after you competitively bid and don't open it up for two or three or more than one concessionaire. I think that that is a small price to pay. I also think that Mr. Chairman that the issue is being clouded by this denial of the free enterprise principal and the exclusive contract, that is really not the point. What we are trying to do is protect agreements we have, just like for the food service and the Administration sees no other alternative. You might want to put

in there that it is the intent of the legislature that it be competitively bid, or put it in the law. That is not a big point with me. But the other amendments that former Senator Groh was suggesting that other people off the airport can put merchandise in the airplane, would allow that to occur, no way, no shape, no how. If people feel that it is in the best interest of the State to protect 25% of the revenue stream in the International Airport Revenue Fund. The operation that LIZ Duty-Free is undertaking right now, pays not one cent to the State, not one.

Number 2/0015

Senator Kelly: Thank you Commissioner. Is there any other questions for the Commissioner from the members of the Committee. Yes, Senator Dankworth.

Number 0017

Senator Dankworth: If this bill were to pass, would they be willing to pay or would they become involved in paying. They wouldn't even be in business if this were to pass.

Number 0045

Commissioner Ward: No, but even if it didn't pass, and this is something that perhaps might be some concern as to why we don't go to LIZ now and ask them to pay something for the operation. We should try to work out an agreement now, in our opinion that would be contrary to the contract and the agreement that we do now have with Duty-Free.

Number 0080

Senator Kelly: Commissioner a question. I don't know if you were around when the original contract was even signed. Was it a competitive bid at that time when it was originally signed way back when.

Number 0101

Commissioner Ward: I do not know that it was, but it is my impression that goes clear back to 1969, I am not aware that whether it was a competitive bid or not. I am aware that there was an extension a five year extension granted by a negotiation that was specifically and originally for 10 years, 1969 to 1979. You may recall there was authorization for International Airport Revenue Bonds to build a new Satellite terminal in Anchorage, believe it or not in 1974. At that time a five year extension

was granted to Duty-Free by negotiation, that's the best history that I have on it right now. The original contract was twelve and one half percent (12 1/2%) the one that's in place now is thirteen point seven five percent (13.75%).

Number 0105

Senator Kelly: Is it my understanding then assuming that the contractor made valid to 1984, then it expires, then the Department will renegotiate the percentage figure when it goes to competitive bid.

Number 0185

Commissioner Ward: Absolutely, we are on record of that and I am sure that Duty-Free will attest to that. We have been struggling and fighting with them over it for at least two to two and a half years now.

Number 0190

Senator Kelly: Thank you. Is there any further questions of the Commissioner. Let me call to the Committee's attention for the record that in your stack of your materials in front of you are two telegrams from Mr. E.J. Miller from LIZ Duty-Free, one dated March 25, at 6:41 p.m., the other one I received this morning. It appears to be a larger expansion of the original telegram

dated March 25th. The Committee would like to hear from Marty Farrell.

Number 0200

Mr. Marty Farrell: Mr. Chairman and members of the Committee, I am Marty Farrell. I have been the lawyer for Duty-Free since 1968 and I would really like to make just a few remarks and introduce Joe Lyons who could answer any economic questions that you may have. In answer to your question to Commissioner Ward. Duty-Free has the concession to sue and to competitive bid. This was the only time this concession was put out to competitive bid was 1969. And we were the only ones who even bid for it. So we did bid for this. The competitive bid is not an issue in this case. The reason it was extended for five years is that you may recall at that time the State sold the bonds to build the building and had let out the lease to "Howard Lease Construction" to build the terminal back then. And at that time we had four years left and it was the State Department of Administration approved

the renegotiated five years as to what is amortized as shop. We are in on a competitive bid and we understand the rules of competitive bidding. Earlier today Mr. Groh made a comment and he was good enough to preface his comment in fact he didn't quite know whether it was fact or not but Duty-Free is not in default of anyone, any payment to the State under this concession. Never has been in 13 years and in fact is, does somewhat have a credit with the State if any for early payments over a number of years. Mr. Becker spoke about the problem of the bill that would not allow people like LIZ Duty-Free to be in because it was a three year requirement in the bill before you. There is no three year requirement. And I think the essence of the arguments made here is that someone else wants to come in and pay the State the highest percent possible when the time comes for competitive bidding they should step right up and join everybody else in their efforts to bid this thing in the highest interest in the State and in themselves. The percentage in all of these contracts is never bid. So no argument to the effect that if we're in we would bid the higher percentage. You don't bid percentages in competitive bid contracts and contracts pursuant to which the State earns it. revenues. You only bid the guaranteed annual minimum. So whatever the State sets in 1984 we cannot argue with that. They set 17, 16%, you have to, you don't bid the percentages the State sets it. So the arguments within the last couple of weeks that the State could have had more are really without foundation because the State said we had to pay this amount for 10 years which we had to pay.

- Number 0230 Senator Kelly: Let me break in for a moment Marty. When was the 13 3/4% originally negotiated.
- Number 0235 Marty Farrell: That was put in when we got the five year extension.
- Number 0237 Senator Kelly: So that would have been in 1977.
- Number 0240 Marty Farrell: That would have been in 1974. See our original contract was in 1969 to 1979 and it was extended five years until

1984. And that was done in late 1974.

Number 0251

Senator Kelly: Ok. Do you happen to know when Hawaii, has Hawaii always been at the 20% figure.

Number 0260

Marty Farrell: Just when we put it out to bid in the last year or two.

Number 0270

Joe Lyons: They have had two percentages: 12 1/2%, and 20%. They have been at 20% for the last ten years. And would be the concession would expires in 1980. It went back out to bid at 20%.

Number 0280

Senator Kelly: Were they at 12 1/2% before 1980 or 20%.

Number 0285

Joe Lyons: It was scaled at 12 1/2% on the level of volume and then it would go to 20% after a certain level of volume. So it has been certainly 20% since 1970.

Number 0300

Marty Farrell: I have copy of a newspaper article which has I think Senator Ferguson has as the latest state of the legislature in Hawaii. Two or three days ago a bill which is identical to the one before you. In there is passed the Senate and is passing the House. For all the reasons that Commissioner Ward emphasized. That the legislature there after three years believes that it is in the best interest of the State to have an exclusive. I might add though that in the history of the Anchorage International airport. There has been exclusives since 1953 when Northwest took over all the... exclusive is nothing evil and nothing new. There is a point that has not been brought out in these hearings but if this bid in 1984 is to have any integrity, if there is to be a concession in which the State can put out the bid and earn millions of dollars in revenue then this bill will protect that resource. If there are off-site operators and if one comes there will be two or three. It is my personal belief that after watching this business for thirteen years there will be no more airport concession Duty-Free operations if several off-airport operators are allowed to participate. And that way the State will lose in my opinion a resource.

Number 0330

Marty Farrell: Joe Lyons has been dealing with the Department of Transportation and Duty Free up here for a dozen or thirteen years and he had several figures that he would like to give you relative to our fees, our taxes, etc.

Number 0350

Senator Kelly: Thank you. Marty could you stand-by please for questions.

Number 0360

Joe Lyons: My name is Joe Lyons, I am the President of U.S. Division of Duty-Free Shoppers. And I have been involved with the Anchorage Concessions since 1969. As indicated we support the SB 824, as a bill which will render immune from challenge contract for Duty-Free which is currently in (sic). And will preserve the integrity of the contract after the lease expires in 1984. Commissioner Ward said at that time it would be put out to bid, we hope that we will be the successors but there are no guarantees. We have won bids and we have lost bids. Perhaps this morning I could give you some of the business background and some of the economics of the Duty-Free business after which I will be happy to answer any questions that you might have. In 1969 we won the contract here on a competitive bidding process. Our revenues in that first year were \$95 Thousand dollars. And in 1981 they had risen to \$5.6 Million dollars and in the last five years since 1977 we have paid into the Department of Transportation Revenue Fund \$22 Million dollars in concession fees. There has been some comments made that Duty-Free is duty free and they don't pay the normal taxes and other things required of another business. That is not true we pay our full compliment of federal and state taxes. In the last five years in Anchorage alone we have paid in excess of \$3 Million dollars in State taxes. We also employ 200 people in the Anchorage area, and you well know that they also contribute taxes and other parts to the general economy of the United States.

Number 0380

Senator Kelly: Excuse me Mr. Lyons, how many people do you employ.

Number 0384

Mr. Lyons: Over 200 people, 210, 215, it depends.

Number 0390

Senator Dankworth: Is that direct employment. Not counting indirect employment.

Number 0395

Mr. Lyons: Those people are all on the payroll. The question was raised on the percentage and the percentages. We have conducted studies of major airports in the United States and the percentages vary from airport to airport. I checked my notes in the recess time and you have an example of Miami who has a percentage of 11%. They pay... I think their revenues are \$2 Million Dollars. Seattle where it is 10%. San Francisco which is 12.5%. Anchorage is 13.75%. Los Angeles at 15%. And Honolulu at 20%. So as you can see there are a number of different percentages in effect for Duty-Free operations around the country. What happens usually is that the concessions come up for a rebid at that point the percentage fee is addressed as I'm sure it will be when the lease comes up in 1983-1984 here in Anchorage. Our company runs Duty-Free shops in the Far East and in the United States and we have acquired all those Duty-Free shops through the competitive bid process. So we are very familiar with that and we deal with competitive bidding probably every year of our life. As far as the Anchorage Duty-Free shop is concerned I think it is probably one of our most unique operations in the United States. It is the second largest in the country behind Hawaii. The \$5.3 Million dollars we generate up here puts it in that category and with slightly over one million passengers passing through the airport that works out to be over \$5 dollars a head in concession revenues which we generate. So I think we have a very successful format and the revenues attest to that. As I say Anchorage is rather unique because in Anchorage we have essentially a transit business. Ninety-five percent (95%) of the business we have done from transits passing through the airport with a 55 minute transit time. What we do is take pre-orders and convince the people on that 55 minute stop over to buy in Anchorage on their way over to Europe, to check around and buy on their way back. They have competitive prices, merchandise assortment, and everything is set so that people will think of Anchorage on their way to Europe. As I

mentioned they are transit they are heading to Europe to do a number of things including shopping. So our goal in the Anchorage concession is to take advantage of the short time frame and maximize our revenues. Another thing we do is we concentrate on a full sale per passenger. So we have a wide selection of merchandise, tobacco, pens, lighters, watches, and our goal is the maximum sale of the passengers. The question of competition in Duty-Free can be a little misunderstood. There is competition and that competition is in the competitive bid process. And that I can assure you is one of the most toughest type of competition that you can have. There is also plenty of competition for Anchorage with the different European shops, Duty-Free shops, and non-Duty-Free shops where the people are heading to buy. But the question of the competition for the concession has been widely discussed in Hawaii and other places we favor the one concession format. We feel that the one concession format is proven, it is traditional, custom is expected. The exclusive concession will throw off higher guarantees to the State or any municipality, as people, when you're bidding for exclusive concession you know exactly what your going to have. In other words you are not worrying whether the plane comes in at one end of the terminal or the other, you know you have total access to that model. Typically airports when they do change with their exclusive concessionaire will simply add extra shops so the concessionaire has the access to that market. Competition of two out or three concession format, I don't feel brings any more revenues. I feel it will bring it less guarantees, I feel that the customers in the case of Anchorage could be confused, as most airports having one concession format. I feel that there can be in this 55 minute transit stop a lot of time lost moving around from shop to shop, whether you are going to buy here or there. And there just simply is not that period of time. In Honolulu in 1980 there existed a similar problem and that was that the Department of Transportation, and I was involved with our company's bid the every step of the way. The Department felt without protective legislation to immune from antitrust they

had to have two concessions. So they put out a two concession format, we won one concession, and Host International a large company won the other concession. But it did not work. After eight months Host withdrew from the operation at Honolulu. They had lost many millions of dollars, they fired and terminated 500 hundred employees, all Honolulu residents. They forfeited a three million dollar performance bond and then they left Hawaii. The revenues between the two concessions could not increase, in fact they decreased. So that format was a failure. The other question and the other point of competition is what we have been discussing here this morning and that is off-airport concession and permittees. That question has also been addressed in Hawaii. The question is should the State allow someone to take preorders off the airport for delivery onto the airport, and we are opposed to that concept because we think that it will reduce the revenues in the concession. What happens is that the person taking it off the airport whether Los Angeles, Paris, or any place else strictly limits themselves to two categories. Say two out of the ten categories. The liquor and tobacco can be loaded onto the plane, but that is the part of the business that you use to draw the people into your full line Duty-Free sell. So once that business has taken off at less than the percentage being paid you will find that the revenues will fall. The State of Hawaii has addressed that over the last couple years along with the question of the two concession format and has decided after testimony of the studies that the State of Hawaii interest is returning to the one concession format. Not to allow people to deliver onto the airport, but to keep the concession as an exclusive. They feel, and we agree, that an off-airport concession will reduce revenues, it will not pay its fair share, it will reduce employment, and it will allow little investment in its community in which it operates. I think that we pointed out today that the LIZ operation pays nothing in Los Angeles, and testimony to the Hawaii legislature a number of the certain permittees some said they would pay, some said they would not. In fact I am not so sure you can force someone

to pay the fees of coming in and on the off airport. So after all that it was felt that the best way to run a Duty-Free concession is to have an exclusive lease, to join other airports within the world, to put it out to competitive bid, and to protect that concession and maximize the revenues. Anchorage we have found in the years that we have operated here, is probably one of the most fragile airports. As you know the planes are stopping on a transit basis, going to and from Europe, there are other routes. They can go through Moscow, Hong Kong around the bottom part of Asia to get to Europe. Or they can fly direct to and from the mainland. We feel the Anchorage concession over the last number of years has produced a substantial amount of revenues. It has held down fees to the Internationals, making it beneficial for them land here. It has held down fees for domestic tourism, held down airfares which encouraged domestic tourism, but we feel that its a formula which is proven and which we feel should be continued in the future for us or whoever the concessionaire might be. But it is in the States interest to continue this successful format.

Number 0451

Senator Kelly: A question Mr. Lyons. It is somewhat often the legislation itself is in response to Mr. Gillin's questions about what he felt was inloping on his exclusive franchise in currency exchange. Do you actually exchange currency in your operation up there.

Number 0465

Mr. Lyons: We do and everyone else operating in the airport, as far as I know has a right in their lease to exchange foreign currency as a service to the traveling public. I think that there is a clause in there as well, that does not mean that you have to set up a foreign currency business, as Mr. Gillins business. But we do that as a service to the people who are buying in the shop. If they want to buy in a different currency, we will exchange that currency in order to make the sale.

Number 0488

Senator Kelly: Let me see if I understand this. Do you actually have a counter where you would exchange yen for dollars, prior to the purchase.

- Number 0500 Mr. Lyons: No we have each of our sales girls capable of making that exchange right on the spot. Because we want to, as I mentioned in that 55 minute period, maximize our sales. So we are geared to do everything we can to do that. So if somebody comes in with yen, pounds, francs, or marcs we do not want to lose that sale we want to deal in foreign currency as well.
- Number 0520 Senator Kelly: But I think what I am trying to get at is do they actually pay for a purchase in yen, and then get dollars in return. Or do they actually give you 10 Thousand yen, and you give them so many dollars, then they make their purchase.
- Number 0540 Mr. Lyons: They would give us yen, and we would convert that yen into dollars, and they would make that purchase using that yen. We do not receive 10 Thousand yen, or \$41 dollars, give them back \$41 dollars and then have them give us back the \$41 dollars. We simply exchange that currency on the spot to make that sale.
- Number 0550 Senator Kelly: Do you have to exchange currency or is that...
- Number 0560 Mr. Lyons: We have to get that sale when we can so a person comes in and they have dollars that's fine. If they come in and have yen or marcs we want to wrap up that sale up very quickly.
- Number 0570 Senator Kelly: Say they come in with 10 Thousand yen, and the purchase item is 8 Thousand yen, do you give the change always back in the same currency in which you receive. In other words would you give them 2 Thousand yen back or would the change be in dollars.
- Number 0580 Mr. Lyon: The change is usually made in dollars, I think we will also give yen back with the foreign currency depending if we have enough in the till.
- Number 0590 Senator Kelly: Do you do any out right exchange at all.
- Number 0600 Mr. Lyons: No. It is always connected with the purchase.

Number 0610

Senator Kelly: Senator Dankworth.

Number 0615

Senator Dankworth: I think Commissioner, did you want to comment.

Number 0620

Commissioner Ward: Yes, Mr. Chairman. Excuse me for this. But in that connection, let me point out that when the foreign exchange concession was bid for the International terminal. A provision in the specification upon which they bid provided for and guaranteed those concessionaires dealing with international trade the right to, in connection with the purchase, had to be in connection with the purchase, that they could be involved in foreign exchange. And that's the basis under which the concession was bid. I wanted the record to show that, because that is what we would enforce based on the contract we have is that over concessionaires would not set up a money exchange. But within connection of the purchase they do have the right to exchange currencies.

Number 0640

Senator Kelly: Yes, Mr. Gillin I will accept a response.

Number 0643

Mr. Gillin: Yes certainly I was aware of that proviso that was in the bid documents, and I wrote a two or three page letter to the Department of Transportation I think that it was in that rhyme asking clarification along those points. The bid document was very good, there were no rules, something like that has to be policed, because people who are in the business now at the airport now have instances where their employees are noticing the difference between what they are accepting the foreign currency at and what we are buying it at or what the bank down the hall is buying it at. At the present time we have three people in business. All what we want is what Duty-Free wants. A true exclusive. The other question I think is very pertinent here is the State has not had since the beginning of the contract any rules and regulation, accounting forms, that Duty-Free must account for their foreign currency. At what rate did they buy it at, what rate did they sell it at, are they making a profit, are they paying the State a percentage, this was never done. I drew their attention to it

some time ago. A year ago, so I have been patient.

Number 0662

Senator Kelly: Are there any further questions from the Committee. Thank you Mr. Lyons. Is there anybody else who wants to testify. Ms. Armistead.

Number 0668

Ms. Armistead: I am Regional Manager for LIZ Duty-Free. I would like to respond first to Commissioner Wards comments. Myself and Mr. Miller met with Mr. Lyon in December and informed him of our operations, what we planned on doing, the fact that we had applied for a federal permit and what type of permit or licenses we would need to be able to deliver to the airport. At that time he said he would refer it to the Attorney General's office he had marked the board for a meeting with us to go over the documents that we gave them. We followed up with our noon times along with Mr. Lyon to let them know where we were progressing when the permit was issued, when we would start delivering, and what was the State's position, could we deliver or not. We were never told that we could not deliver. We were never stopped. We also talked to Mr. Lyon about that we would like to bid on the concession in the new airport when it came up for bid. We asked him the time schedule on that, how to get on the bid list and had they lined up the bid requirements yet. He went over some of them, told us they were to bid a year prior ending to the contract, and to qualify to bid, that you had to be in the Duty-Free business within the State of Alaska for six months prior to bidding. Approximately a week ago to follow up and verify that, Mr. Groh met with Mr. Lyon who was informed at that time that instead of the six month requirement within the State of Alaska, that they were going to put in a three year requirement within the United States. Also we keep comparing Alaska to Hawaii, I would like to bring out the differences there. What we are trying to do here is retain the right to deliver the goods to the airport. The goods that are sold at another point, and we are talking about selling these goods at a destination point were the purchasers are already out shopping and they are going to buy from someone in Paris, someone in New York,

someone in Los Angeles that they already out there shopping. So why not take advantage of where ever they buy, they are already out shopping, and being able to collect a commission when the goods are delivered in Anchorage. That is not a direct competition with the current Duty-Free shoppers in the airport. These people have already made up their minds to buy these goods in whatever town they are in. When they come through here we are not currently in the airport. We are not a competition to the airport. We hope that when the bid comes, we hope to be able to bid and we would like to see more than one Duty-Free operation out there. We thought that we are unique from Hawaii in that aspect if they are a destination area, I can see where downtown airport operations are a direct competition to the Duty-Free shops in the airport there. That is not what were speaking of here at this point. LIZ's plans in the future are to open in downtown Anchorage. If that would interfere with the contract that we could deliver the goods and pay a commission on the current operation those plans can be put off, or they can be changed. What we are concerned at this point, is the right to continue to deliver the goods, which the State has not prevented us from getting into.

Number 0710

Senator Kelly: Is there any questions from the Committee. Yes, Senator Dankworth.

Number 0715

Senator Dankworth: It was the indication from the Commissioner that they made it pretty clear when they considered these kind of going around. You did not get an approval from them did you.

Number 0720

Ms. Armistead: We did not get an approval. What they stated was that they had an exclusive contract with the current Duty-Free operator and they would have to refer that to the Attorney General's office, Martha Mills would be the one that would be reviewing it and she would be our contact from that end, and that they would let us know after they reviewed it if it was a violation of the contract. As we went along with our plans as the permit came through and as we started talking with people, setting up and ordering inventory, we continually talked with her, we met with Mr.

Lyon a couple of other times, we corresponded with him and the response we received was that... We sent a letter to the International Air Carriers at the airport informing them of their operations and stated that the Department of Transportation would not take a stand and that it was up to the airline carriers to receive our goods. It was not their position to take a stand.

Number 0760

Commissioner Ward: I would like to say for the record that they never wanted any part of it, and if there was any way that we could have stopped them from day one we would have.

Number 0770

Senator Kelly: Thank you Commissioner. Is there any other questions from the Committee. Thank you Margo. Is there anyone else who would care to testify. Tim Miller indicates that he can have the transcript of this meeting done up by tomorrow afternoon. I would suggest that we meet again Thursday morning at 9:00 a.m. to determine what our recommendation is going to be on this bill.

Number 0777

Senator Dankworth: We may have a conflict Mr. Chairman on Finance. We may have a 9:00 a.m. meeting I cannot recall.

Number 0780

Senator Kelly: How about 8:00 a.m.

Number 0785

Senator Dankworth: Or 8:30 a.m.

Number 0790

Senator Kelly: The meeting is adjourned till 8:30 a.m. Thursday morning.

TURN HISTORY STORE OFF
CONTINUE ?

C E R T I F I C A T E

STATE OF ALASKA)
)ss
FIRST JUDICIAL DISTRICT)

I, EVE FOX, a Notary Public, duly commissioned in and for the the State of Alaska, do hereby certify that the foregoing transcript of the March 30, 1982 public hearing before the Senate Rules Committee relating to Senate Bill 824, was recorded by Tim Miller of the Senate Records Staff and thereafter transcribed by me under the direction of the Senate.

I further certify that the transcript consisting of pages 1 to 34, both inclusive, is a full, true and correct transcript of the proceedings, considering the quality of the tape and the information furnished to me.

I further certify that the Senate Records Staff is in no relation to any of the parties, nor financially interested in the action.

I further certify that the original of this transcript was given to the Senate Rules Committee, pursuant to their instructions.

IN WITNESS WHEREOF, I have hereunto set my hand and my notarial seal this 6th day of April, 1982.



Eve Fox

Notary-Public, State of Alaska
My Commission Expires: My Commission Expires:
March 25, 1983

COMMITTEE TAPE LOG 1982

tape no. 1 side A

committee: Rules

date 3/30/82 to None

bill numbers: SB 824 | | | | |

other information: Sen Zugler, Ferguson, Kelly, Donkworth

Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	000		Sen Kelly opens meeting at 9:15
	035	824	Kelly brings before committee Cliff Goe, Duty-free Competitive bidding, bill doesn't provide Suggested adding amendments Creates monopolies
	65		
	113		Passage of bill would ^{benefit them} not
	173		Made comparison to Hawaii's situation
		Amend #1	Pg 2 line 21 ^{delete} - sale & delivery insert comp. bidding.
	230	Kelly	Any quest. from committee
	235	Zugler	Not now but may later
	240	Kelly	Chuck Becker outlines background Promotes fee enterprise system.
	290		Thinks bill jeopardizes that system Does not support passage of SB 824
	346		Read statement from Duty-free shops
	368	Zugler	What if bill is not unbalanced.
	375	Becker	We want to open up shops You will enhance state inc.
	383	Donk.	Who else would compete
	400	Becker	No one including us.
		Donk.	L12 wants to be now instead of later.
		Becker	

COMMITTEE TAPE LOG 1982

tape no. _____

committee: _____ date _____ to _____

bill numbers: [] [] [] [] [] [] [] [] [] []

602 other information:

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Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	445	Feng	
	450	Kelly	Ask for Marty Farrell Farrell - the bill may pass Hawaii leg.
	459	Zugler	
	473	Kelly	Jim Thompson, citizen
	483	Thompson	Bell represents a threat to econ & free enterprise Sec 6 needs revision
	521		There are agencies to enforce good business without creating another
	564	Kelly	Bob Gill, Antis Money Mart
	586	Thompson Mill	outlines his background Annoyed introducing a redies bill
	623	Mill	Is worried his business will be ruined
	655	Gill	Stop the monopoly created by state
	719	Zugler	Was contract illegally written
	725	Moe	
	757	Dank	
	768	Kelly	Recess at 9:50
		Kelly	Recommences meeting at 11:35
	772	Wald	Commis P.O.T.

COMMITTEE TAPE LOG 1982

tape no. _____

committee: _____

date _____ to _____

bill numbers:

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other information:

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Date/Time	Tape Meter No.	Bill	Significant Information (Witness, Action)
	781	Ward	Designed to stop L12 present practices.
		Ward	Gov. places importance on SB 884
	802	Ward	Defending contract and bill because Admin sees no other alter.
	000		Sen. Kerttala arrives
	015	Kelley	Any questions.
	017	Pank	Asks question
	045	Ward	Would be in conflict to collect bag.
	080	Kelley	2 telegrams submits to Comm.
	101	Kelley	introduces Marty Farrell
	105	Farrell	Legal counsel for Duty Free
	185	Kelley	Asks quest. about Hawaii
	190	Lyons Farrell	submits news article from Hawaii regarding Duty Free Shops
	237	Lyons	Puro U.S. Division. Duty Free Shops Supports bill
	314		Relates tax is paid by duties fee to State
	395		off airport access ^{concession} is no good
	451	Kelley	Quest. Do you actually exchange foreign currency.
		Lyons	Yes, but
		Kelley	change back in different agency.
	500	Ward	Ward - that gov. is in contract
	530	Millam	Need to clarify foreign exchange rate.

Date March 30 1982

SENATE RULES COMMITTEE HEARINGS

WITNESS SIGN-UP SHEET

- ①
- ②
- ③
- ④
- ⑤
- ⑥

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