

ALASKA LEGISLATURE COMMITTEE FILES 1905-1906

3342

HJUD

HB

376

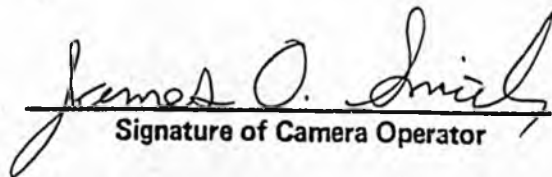
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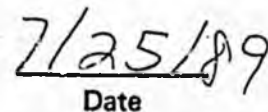


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376

STATE OF ALASKA THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary	3/17/86	1:30 pm
"	3/21/86	1:30 pm
Community & Regional Affairs	2/3/86	3 pm

HOUSE
COMMITTEE REPORT

(7)
Date referred: 2/5/86

FURTHER REFERRALS:

DATE: _____

The JUDICIARY Committee has considered HB 376

"An Act relating to municipal regulation of vehicles for hire."

and recommends:

- do pass
- do not pass
- do pass with attached amendment(s)
- no recommendation
- replace with CS HB 376 (JUD) same title
- new title

and recommends _____

further referral to the _____ Committee

- and attaches:
- letter of intent
 - first fiscal note
 - new fiscal note
 - zero fiscal note

SIGNING DO PASS:

[Signature]

[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] N.O. REC.

[Signature] N. Rec.

[Signature] N. Rec.

[Signature]
Chairman

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



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REPRESENTATIVE JOHNE BINKLEY

January 28, 1986

TO: Representative Mike Miller
Chairman
House Judiciary

From: Representative Johne Binkley

Re: House Bill 376

House Bill 376 (CS Transportation) is now in your Committee. It provides local municipalities the statutory authority to regulate entry into the business of taxicabs, limousines, and other vehicles for hire. Further, the municipality may license, control and regulate the above, as well as fix, establish, and change rates charged for the service.

To explain the purpose of the bill, the Attorney General states; House Bill 376 does not appear either to add or subtract from this authority, although it sets out the authority somewhat more cogently than present law."(AS 29.48.035)

I am requesting the Judiciary Committee members to consider a slight change suggested by Legislative Legal Services-on lines 12 and 16 change "other vehicles" to read "other passenger vehicles". Also, please consider deleting Sec. 2 which is not necessary nor desirable.

Attachments:

1. April 24, 1985 letter from Assistant Attorney General Richard Monkman.
2. April 18, 1985 letter from Richard Zerbe, Professor Graduate School of Public Affairs. University of Washington.
3. April 18, 1985 letter from Ross D. Petty of the Federal Trade Commission.
4. April 11, 1985 letter from Ross Petty to Anchorage Assemblyman John Wood.



Alaska Up Close • P.O. Box 2666 • Juneau, Alaska 99803 • (907) 789-9544

March 18, 1986

Rep. Mike Miller, Chairman
Committee Members
House Judiciary Committee
State of Alaska

Dear Mr. Miller and Committee Members:

I have serious concerns about CSHB 376, which grants municipalities the power to regulate passenger vehicles for hire.

As deregulation moves forward in many industries, this seems a giant step into the past. It is hard to imagine how public good is served when their options are limited and competition is stifled through limited entry. Setting safety standards is one matter, deciding who may provide a service and at what price is quite another.

I operate a specialty tour service in Juneau which offers a range of services from special interest tours to short sightseeing tours to week-long workshops. As one of my tools in offering these experiences, I operate a passenger van. I am not a taxi or a limousine, although I transport people as part of a tour. I am what is amorphously called an "other passenger vehicle." Trying to sort out vehicles or providers by the service they offer may appear simple on the surface, but soon becomes hopelessly entangled.

The consumer is entitled to a safe vehicle and a safe driver, and safety regulations are a proper purview of government. But it is the public, not government, which is entitled to decide which service it wishes to purchase from whom, and at what price.

An operator who does not provide dependable service in a clean vehicle with an attitude of respect toward his passengers to compete within the free marketplace will have much less reason to do so under the protectionism of government.

I urge you to look at all the ramifications of this legislation.

Sincerely,

Judy Shuler
Owner/Operator

Like a dream, the forest is within us all, a vast internal landscape of boundless beauty and stillness and joy, waiting to be discovered.

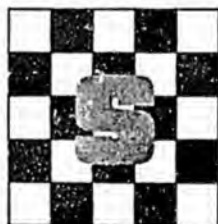
John Broome, Perseverance Theatre, Douglas, Alaska



Cab Scam

Even taxis are controlled by Chicago's corrupt political machine. Now pressure is building to dismantle the city-supported cab monopoly.

By Daniel John Sobieski



Since Charles I ordered the licensing of hackneys in London and Westminster in 1635, governments have tried again and again to control first hackneys, then cabriolets, and today taxis. Until recently, almost nothing was quite so sure as death, taxes, and cab regulation.

Perhaps nowhere are the fruits of such regulation more obnoxious than in Chicago. For more than half a century, two interlocking companies have shared a near-monopoly over the taxi business in the Windy City, limiting the number of cabs on the streets, locking out potential competitors, and deciding who gets to work in the business and who doesn't. But a \$320-million antitrust lawsuit could change all that by shattering the dominance of the Checker and Yellow fleets over Chicago's taxi industry. The result could be more cabs on the streets, better service for low-income areas, employment for licensed cab drivers who can't now find work, and an opening for new companies to enter the market.

It would all be part of a growing nationwide trend to deregulate municipal taxi businesses. There is already a steadily expanding list of cities with at least partial taxi deregulation. It includes all of Arizona's cities and towns; San Diego and Santa Barbara, California; Seattle and Spokane, Washington; Honolulu; the District of Columbia; and Kansas City, Missouri, among others. Indeed, a survey of 103 American cities found that during the past five years, 16 cities have substantially relaxed market-entry controls, while 17 substantially relaxed fare regulations. This trend was further stimulated in 1982 by the Supreme Court's *Douglas* decision, which held that cities can be sued in some cases on antitrust grounds for restraining competition. Three Chicago taxi drivers saw the opportunity to file suit in federal court against the Checker and Yellow cab companies. They had conspired with the city of Chicago, charged the suit, to monopolize the city's taxi industry via limits on the number of taxi licenses.

It is interesting that such a suit should be filed in Chicago, partly because the modern taxicab industry got its start there. John D. Hertz, best known today

for the car-rental business he also started, launched the Yellow Cab Company in Chicago, and it was the emerging taxi industry that prompted the first installation of traffic lights along Michigan Avenue.

Joseph L. Bast of the Heartland Institute has noted that from 1915 to 1930 the taxicab industry of Chicago flourished in an environment relatively free of regulations. The industry earned a reputation for professionalism, safety, and innovative service. Hertz pioneered such developments as telephone dispatching, no charges for deadhead mileage to or from a pick-up point, uniformly low fares, and training programs for drivers.

Entry into the trade was virtually unrestricted by local government. Marcus Alexis, a Northwestern University economics professor and a student of Chicago's taxicab industry, recounts that in the 1920s, as more and more Chicagoans were able to afford their own cars, many simply put "TAXI" signs on the sides of their cars and thus entered the market as cab drivers. And since no firm held a monopoly via licenses, anyone who could earn the public's confidence

could stay in business.

According to Alexis, the larger cab companies were displeased with the competition they faced. By the late 1920s, Yellow and Checker had managed to buy out several smaller companies and had consolidated dominant positions in the Chicago taxicab industry. In 1929, using the flimsy pretext of protecting the consumer from "price gouging," they got the city government to impose entry restrictions.

The legal barriers against entry into the industry were dropped temporarily in 1931, but no new licenses were issued despite applications. Entry controls were reimposed in 1934 by a regulation providing that licenses would be issued only after a showing that they were required by the "public convenience and necessity." During this period, Yellow and Checker bought out other remaining competitors and secured their near-monopoly. And in 1934, minimum-fare controls were imposed by the city to eliminate price competition—and make taxicab operations more profitable.

Chicago limited the number of licenses to 4,108 in 1934, reduced the number to 3,000 in 1937, and then in 1963 permanently established a 4,600 ceiling by city ordinance. The ordinance formalized an agreement personally brokered by the late Mayor Richard J. Daley, in which Checker and Yellow were guaranteed 80 percent of them (the language of the ordinance froze market shares at 1963 levels). Later, these licenses were also made nontransferable.

Not only do Checker and Yellow nearly monopolize the Chicago market, but they even have interlocking ownership. Checker owns 44 percent of the stock in Checker Motor Company, a New York corporation that in turn owns all the stock in Yellow.



These two firms' historic dominance of the market was part of the Chicago political structure in which clout and influence prevailed. The system of the regulated and the regulators scratching each other's backs fit in nicely with the politics of the Daley machine. But after Daley's death on December 20, 1976, all the king's horses and all the king's men were in disarray.

In an attempt to continue the status quo, the machine's power brokers settled on Alderman Michael Bilandic as Daley's successor. Bilandic was selected as acting mayor and subsequently elected to fill out Daley's term on June 7, 1977. He

From the start, regulation was a brilliant ploy of the big two cab companies working in collusion with a corrupt political machine.

was from Daley's historically powerful 11th Ward and had been schooled in the fine art of Chicago politics by Daley himself.

Among Bilandic's first acts as mayor was a secret meeting with Checker Taxi president Jerry Feldman at Midway Airport on June 8, 1977. It was destined to change forever the face of Chicago politics. Jane Byrne would charge that at this meeting, Mayor Bilandic approved an unwarranted taxi-fare increase as a personal favor to long-time friends of the Democratic machine.

And who was Jane Byrne? At the time, she was just another high-level functionary of the Democratic machine. Although she was not considered part of the inner circle that was calling the shots in Chicago when the dust settled after Daley's death, she had always been a party loyalist and had risen swiftly through the ranks. Ten years before, Daley had appointed her commissioner of consumer sales, weights, and measures. And one of his last official acts was to pass an ordinance giving her office authority over taxi leasing contracts. Thus was she present at the Midway Airport meeting, details of which are contained in a now-famous memo (originally written for her files, she said later, "to protect myself").

In the memo, she charged that Bilandic "greased" the way for the city council's approval of an 11.7-percent fare hike. She said that the city's "entire action" in granting the fare increase was "fraudulent and conspiratorial."

As Byrne described the meeting with Checker president Jerry Feldman: "The Mayor looked at him and said, '... I can call an emergency City Council meeting the following week. Oh, we won't make the rate increase the reason for the Coun-

cil meeting. We'll blow up some other matter to look important and quietly tack the increase on in unfinished business.' He looked at everybody and said, 'That's how it's done.'"

What Bilandic "negotiated," she said later, "was a taxicab fare increase that is a soak Chicago, soak the sick, old people taking short cab rides...soak the Loop businessman...soak the cab driver." She had witnessed, she said, "the shameful spectacle of the mayor of Chicago belittling the poor, the uneducated black and white driver and advising the taxi corporations that as soon as the fare increase went through to raise the [leasing] rates on them, which they did."

As a city official, Byrne had earlier asked an accounting firm to audit the records of Checker and Yellow. The firm's report showed the two companies were making huge profits from their leasing operations and were in such good financial shape as to be undeserving of a fare increase. She brought this up at the Midway Airport meeting, to no avail.

Always loyal to her mentor, Richard Daley, she said later that such secret meetings did not occur when Daley was mayor. She decided to release her memo four months after it was written, in response to a demand by one of the aldermen that the power to regulate cabs be taken from Byrne and transferred to more-loyal machine supporters.

The controversy heated up. Byrne took a lie-detector test, even though such tests are notoriously unreliable. The testers rated as "truthful" her answers to questions pertaining to the Midway meeting and the memo. Byrne was fired by Bilandic in November 1977, but she got revenge. In 1979, she ran for mayor against Bilandic and won a stunning upset.



ittle did anyone guess back then that the days of the regulated taxi industry in America might be numbered, but wheels were beginning to

turn. An August 1977 report, prepared by the Chicago office of the Federal Trade Commission after a four-year investigation, called the Checker Motor combine a monopoly and urged that it be broken up. The report charged that cab officials falsely inflated their expenses to justify fare increases and conspired in making governmental policy decisions affecting the entire taxi industry in Chicago.

At the local level, Byrne ranted about an "evil cabal" of political hacks, but she soon learned as mayor to go along to get along. It remained for the administration of Harold Washington, elected mayor in 1983, to accept the idea of taxicab deregulation.

There is a good reason for the Washington administration to work for a more open taxi industry: the antitrust suit by the cab drivers against the city and the two big cab companies, known as *Campbell v. Chicago*. Last year, Washington's corporation counsel, James Montgomery, devised a settlement. He proposed that the city would make 400 new taxi licenses available in the summer of 1984, another 500 on January 1, 1985, and an unlimited number beginning January 1, 1986. Moreover, the 1963 ordinance that froze market shares—the Daley brainchild—would be voided. In exchange for these reforms, he wanted the plaintiffs in *Campbell* to drop the city from their litigation (technically, this may have left the two cab companies as defendants).

It all sounded wonderful. The taxi industry would be opened up, the cab drivers would be victorious, and the city's officials would no longer have the specter of a multi-million-dollar damage suit hanging over them. But there was a snag—the city council. The proposed settlement required that the council pass an enabling ordinance. At this writing, however, that ordinance is tightly bottled up in the Local Transportation Committee, chaired by Washington's arch-enemy, Alderman Vito Marzullo. And because the ordinance will probably go nowhere, the Montgomery settlement is expected to come to naught.

Alderman Ed Burke, chair of the council's Finance Committee, argues that the proposed ordinance would result in higher fares. But Montgomery and Washington's Consumer Services commissioner,

Jesse Madison, counter that fares will be reduced through competition by opening the marketplace to more independent operators.

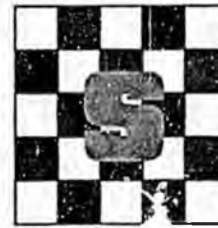
Checker president Jerry Feldman, whose grip on a market that handles an estimated 60 million riders yearly is threatened, contends that deregulation would flood Chicago streets with unqualified drivers. But records in the city Department of Consumer Services show that 9,434 men and women were certified in 1983 alone to drive taxis in Chicago—more than double the number of available license medallions.

A driver who doesn't own a medallion currently has two options. He may lease a cab and medallion on a daily or weekly basis from one of the major companies, paying \$55-\$58 a day for the vehicle, medallion, and insurance. Gas is extra. Or he may lease only the medallion on a weekly basis and drive his own car. In that case, the title to his car must remain in the name of Checker or Yellow, yet he must pay his own maintenance bills.

Drivers pay anywhere from \$165 to \$187 a week for the right to use the medallion, for which the cab companies pay the city only \$200 a year. And indication of the market value of the medallions came in 1982, when Yellow and Checker sold 18 of their licenses to independent drivers for more than \$13,000 each. The companies also received more than \$1 million worth of bids on 80 other medallions before the city council prohibited further sales.

Few taxi drivers can afford to pay \$13,000 for a medallion, even if the major companies would and could sell. Studies have shown that most taxi drivers in Chicago make less than \$10,000 a year after expenses. Most of them work 12 hours a day, six or seven days a week. That means that on the average, they end up earning less than the minimum wage.

The same laws that indirectly exact such a heavy price from the average taxi driver are at the same time artificially protecting the taxi companies already in the field and long ago destroyed the competition that previously determined the optimum number of cabs in Chicago. Moreover, by fixing rates and otherwise legislating matters previously left to individual firms, the regulations virtually remove any incentive for companies to improve the quality of their service.



ould the taxi industry in Chicago be opened up to competition? Marcus Alexis of Northwestern University, who served on the federal government's Interstate Commerce Commission for three years, is convinced that it should.

Deregulation, he notes, would open up the number of licenses, thus reducing their cost. "People who like to be entrepreneurs in the industry would be able to do so at a reasonable cost." The effect for consumers? "The experience of other cities... has been that the effect is to provide more cab services for those who use them."

Alexis agrees with estimates made by Consumer Services commissioner Jesse Madison that a free market would raise the number of taxis in Chicago by 40 percent. Chicago currently has one cab for every 653 people. In a study sponsored by the Federal Trade Commission and released in May 1984, it was noted that an open-entry city such as Atlanta had nearly 3.5 times the number of cabs per 1,000 population as a restricted-entry city such as San Francisco. The average fare in Atlanta was a full dollar less for a three-mile trip.

In addition, Alexis notes, increasing

Although ordinances require that "every taxi be operated regularly," reporters found a daily average of 652 idle cabs.



he number of cabs would increase their availability in low-income areas, which traditionally have poor service in cities such as Chicago. The study by the FTC supports the contention that poorer neighborhoods are hit hardest by the shortage of cabs. "Restrictions on the total number of firms and vehicles," it concluded, "impose a disproportionate burden on low-income people."

In Chicago, city-imposed limits on the number of cabs has meant that the relatively few taxis that are on the streets are found disproportionately in the affluent Near North Side, the Loop business district, and O'Hare International Airport, while vast areas of the poorer West Side and South Side are underserved or not served at all by taxis. And because Checker and Yellow are protected from competition, they need not worry about operating their full fleet so that they can serve the entire city adequately.

On the contrary, a scandalously large number of taxis remain idle in company

lots across Chicago. In a four-day period last year, for instance, *Chicago Tribune* reporters found a daily average of 652 licensed cabs sitting idle at eight storage lots run by Yellow and Checker.

City ordinances require that "every taxi be operated regularly" to ensure public convenience. Failure to do so is supposed to result in revocation of a taxi medallion. "But we have to prove that the cabs were not used for 10 consecutive days for us to be able to take any action," says Chris Kelly, of the city's Department of Consumer Services.

Checker president Feldman claimed recently that only four percent of the company's fleet is idle daily, with another seven percent down for maintenance. He said the idle cabs discovered by the *Tribune* reporters may have been old vehicles kept for parts. When he was told they had medallions, Feldman said a lack of drivers may have kept them off the streets. But, as we have seen, there is no shortage of drivers.



he arguments regularly used by opponents of taxi deregulation in Chicago are undermined by the experience of other cities like Washington, D.C. In his book *The State against Blacks*, economist Walter Williams discussed the effects of an unencumbered taxi market there.

"The free market in Washington produces benefits for a large group of people," he noted. "First it produces business ownership or work opportunities for many semi-skilled workers, college students and others wishing to supplement their regular earnings. It provides higher quality services to consumers at lower prices. It also refutes the disorderly market, 'dog-eat-dog,' and congestion types of arguments used as justification for strict regulation in other cities."

Local restrictions on the taxi market "impose a disproportionate burden on low-income people," FTC investigators charged.

He notes that Washington, D.C., has the largest number of taxis per 1,000 population, which suggests that Washington taxi riders not only receive higher-quality service but that they get it at prices that are among the lowest in the nation. In 1976, his data show, Washington had 12 taxis per 1,000 population, compared to 2.5 in New York and 1.5 in Chicago.

With open entry, the Washington taxi industry consists of mostly self-employed people who work and conduct their business as they see fit. It is estimated that at least 50 percent of the taxi owners are part-time operators who work around their regular non-taxi employment. In addition, a number of taxi owners lease their vehicles to other individuals on either a full- or part-time basis.

Williams noted that as of 1979, there were about 8,400 taxi vehicles that operated in the District of Columbia, 90 percent of them owner-operated and 75 percent minority-owned. And according to a report by the House Committee on the District of Columbia, the results have been good.

"Passengers get a better and safer ride because of the driver's personal interest in his own taxicab," it pointed out. "This is not true in other large cities where meters are required and the operation of the taxi system is controlled by fleets. Because he is an independent businessman...the owner-operator has better equipment and exercises greater care than a driver who is not an owner. It is the independent cab drivers in Washington, D.C., who have given the city the best taxi service of any city in the United States."

Best or not, it is certainly better than service under the taxi monopolies prevalent elsewhere. Other cities can testify to that as well. One is San Diego, where the ceiling on the number of taxi permits was

removed in 1979 and the city began issuing a fixed number of additional licenses each month. Regulations that controlled the fare structure were replaced by a fare ceiling so high that it was of little importance for most firms, who were freely discounting and bargaining on fares.

The Federal Trade Commission study last year noted that between 1979 and 1983, the number of licensed cabs in San Diego more than doubled, jumping from 409 to 915; the number of companies increased from 68 to 310; and the market share held by the largest firm fell from 68 percent to 31 percent. Average response time for radio-dispatched cabs fell from 10 minutes in 1978 to 8 minutes in 1980. The percentage of taxi riders who rated taxi service good or excellent increased from 75 percent (residents) and 86 percent (visitors) to 82 and 92 percent respectively between 1978 and 1980.

Another benefit of deregulation has been reported by Barbara Lupro of the city's Paratransit Administration. Average insurance rates for cabs have plummeted to about 20 percent below the national average, from more than \$2,000 annually before deregulation to about \$1,400 today—this despite the fact that San Diego requires significantly more insurance coverage for its cabs than most other American cities require for theirs.

Undoubtedly the lower rates are partly because of better auto maintenance and owner care spawned by competition. Probably, they are due partly also to the risk being more widely distributed. In any case, the San Diego experience belies a common antideregulation argument—that insurance would be unavailable or prohibitively expensive under decontrolled entry.

Of 103 cities the FTC studied from 1979 to 1984, 24 made major changes in their entry and fare regulations, with 16 relax-

ing entry restrictions, 17 relaxing fare restrictions, and some doing both. Some that have not joined the trend toward transportation deregulation, such as Minneapolis and New Orleans, have been faced with FTC lawsuits based on the *Boulder* doctrine—for good reason.

As the FTC study summarizes: "Experience with open entry and fare competition...has generally been favorable....The favorable aspects of open entry...include increases in the number of taxi firms and decreases in the market share of the largest firms, increases in the number of hours of cab service, reductions in fares and response times, and reductions in the amount of time city councils devote to licensing and fare setting."

In its litigation against Minneapolis and New Orleans, the FTC said that if these cities "did not have the challenged regulations, consumers would have more taxi service at less cost and with less waiting time." Timothy Muris, director of the FTC's Bureau of Competition, has quoted government estimates that taxicab deregulation nationwide would save consumers \$790 million annually and create 38,000 new jobs.

Part of the mythology of government regulation is that it protects the average person—the consumer, the worker, the minority-group member who would not otherwise be able to fend off the depredations of the "big boys." Yet the entire history of taxi regulation in Chicago furnishes a powerful example of the falsity of this myth. From the start, regulation was a brilliant ploy of the big two cab companies (working in collusion with one of the most corrupt political machines in the country) who didn't want to be bothered with a free market. And the record is clear about who pays the price: taxi riders who pay inflated fares; the companies' own employees, whose wages are artificially depressed; blacks and Latinos living in the neighborhoods where legal taxi service is very rare; and out-of-luck entrepreneurs, often minorities themselves, who cannot afford to put up the money to buy a high-priced taxi license.

Perhaps the *Campbell* litigation or the Montgomery proposal, or even some combination of the two, will eventually break the monopoly. And if that happens, Chicagoans will learn what San Diegans and Washingtonians and residents of a score of other cities have learned: it's the free market, not regulation, that really gives the little guy a fighting chance. □

Daniel John Sobieski is a Chicago-based freelance writer.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 20, 1986

SUBJECT: Municipal regulation of passenger vehicles
(Work Order No. 14-H376)

TO: Representative John Binkley

FROM: Michael F. Ford *M.F.*
Legislative Counsel

The attached draft has been changed to allow municipal regulation of "other passenger vehicles" as well as taxicabs and limousines, and a new subsection has been added to prohibit municipalities from regulating the rates charged by tour operators for tour or sight seeing services. As "municipality" means home rule or general law city, home rule or general law borough, or a unified municipality, the bill would apply to each of these political subdivisions of the state. However, in order to apply Sec. 29.35.142 (b) to home rule and general law municipalities, it was necessary to add section 1, AS 29.35.142 (c), to the draft.

Concerning the effect of the bill on cities within boroughs, under AS 29.35.250 if a borough adopts an areawide ordinance, the city could not exercise the same power unless provided for in the borough ordinance. Assuming the borough has not adopted an ordinance, the city could exercise any power not otherwise prohibited by law.

MFF:mkr
m4/027

Enclosure

Original sponsor: Binkley

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 376 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal regulation of taxicabs,
7 limousines, and other passenger vehicles for hire."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.10.200 is amended by adding a new paragraph to read:

10 (47) AS 29.35.142 (regulation of passenger vehicles)

11 * Sec. 2. AS 29.35 is amended by adding a new section to read:

12 Sec. 29.35.142. REGULATION OF VEHICLES FOR HIRE. (a) A munic-
13 ipality may license, control, regulate, and establish standards for
14 the safe operation of taxicabs, limousines, or other passenger vehi-
15 cles for hire within the boundaries of the municipality and may fix,
16 establish, and change rates charged for the service. The municipality
17 may set public interest standards and based upon these standards may
18 regulate entry into the business of providing taxicabs, limousines, or
19 other passenger vehicles for hire.

20 (b) Notwithstanding (a) of this section, a municipality may not
21 control, regulate, fix, or establish the rates charged for tour or
22 sightseeing services provided by a taxicab, limousine, or other pas-
23 senger vehicle for hire.

24 (c) This section applies to home rule and general law municipal-
25 ities.
26
27
28
29

Offered: 2/5/86
Referred: Judiciary

Original sponsor: Binkley

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 376 (C&RA)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FOURTEENTH LEGISLATURE - SECOND SESSION
6 A BILL
7 For an Act entitled: "An Act relating to municipal regulation of passenger
8 vehicles for hire; and providing for an effective
9 date."
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
11 * Section 1. AS 29.35 is amended by adding a new section to read:
12 Sec. 29.35.142. REGULATION OF VEHICLES FOR HIRE. A municipality
13 may license, control, regulate, and establish standards for the safe
14 operation of taxicabs, limousines, or other passenger vehicles for
15 hire within the boundaries of the municipality and may fix, establish,
16 and change rates charged for the service. The municipality may set
17 public interest standards and based upon these standards may regulate
18 entry into the business of providing taxicabs, limousines, or other
19 passenger vehicles for hire.
* Sec. 2. This Act takes effect March 1, 1987.

Introduced: 4/12/85
Referred: Transportation and
Judiciary

1 IN THE HOUSE

BY BINKLEY

2

HOUSE BILL NO. 376

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to municipal regulation of vehicles
7 for hire."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.48.035 is amended by adding a new subsection to
10 read:

11 (d) A municipality may license, control, and regulate taxicabs,
12 limousines or other vehicles for hire that are operated within the
13 boundaries of the municipality and may fix, establish, and change the
14 rates charged for the service. Based on the municipality's determina-
15 tion of need for the services, the municipality may regulate entry
16 into the business of providing taxicabs, limousines, or other vehicles
17 for hire.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 17, 1986

SUBJECT: Municipal regulation of taxis and limousines
CSHB 376(Jud)

TO: Representative John Binkley

FROM: Michael F. Ford
Legislative Counsel

Attached is a work draft CS for HB 376(Jud), that specifically allows municipal regulation of taxis and limousines. I have eliminated the effective date from this draft, because I have determined that the bill would not be affected by the initiative enacted in 1985 that repealed the Alaska Transportation Commission.

MFF:mkr
m4/007

Enclosure

Ford
3/17/86

Original sponsor: Binkley

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 376 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to municipal regulation of passenger
7 vehicles for hire."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 29.35 is amended by adding a new section to read:

10 Sec. 29.35.142. REGULATION OF VEHICLES FOR HIRE. A municipality
11 may license, control, regulate, and establish standards for the safe
12 operation of taxicabs or limousines for hire within the boundaries of
13 the municipality and may fix, establish, and change rates charged for
14 the service. The municipality may set public interest standards and
15 based upon these standards may regulate entry into the business of
16 providing taxicabs or limousines for hire.

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 24, 1985

The Honorable John Binkley
Representative
Pouch V
Juneau, AK 99811

Re: House Bill 376

Dear Representative Binkley:

Attorney General Gorsuch has referred your letter of April 17, 1985 to this section for comment.

The proposed legislation would not change the existing municipal exemption from antitrust liability as regards taxicab regulation. AS 29.48.035 gives municipalities authority to "regulate ... vehicle ... traffic, and licensing and operation of motor vehicles" [AS 29.48.035(a)(1)], to "regulate ... licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers" [AS 29.48.-035(a)(2)], and to "regulate ... transportation fares" [AS 29.-48.035(a)(4)]. This broad grant of authority would seem to cover all aspects of the taxicab industry. House Bill 376 does not appear to either add to or subtract from this authority, although it sets out the authority somewhat more cogently than present law.

Because the present law grants municipalities such broad authority, the municipalities are exempt from both state and federal antitrust liability. Parker v. Brown, 317 U.S. 341 (1943); Golden State Transport v. City of Los Angeles, 726 F.2d 1430 (9th Cir. 1984). House Bill 376 would not affect the exemption. Commissioner John Pugh, Department of Health and Social Services, recently requested our opinion about an analogous situation involving municipal regulation of ambulance services. A copy of our opinion is attached for your information.

The Anchorage price-fixing case you mention did not involve application of the municipal antitrust exemption. Anchorage ordinances allow private taxicab companies to set whatever fares they choose. up to a maximum charge. Two competing

The Honorable John Binkley
House Bill 376

April 24, 1985
Page 2

taxicab companies, it was alleged, got together and agreed to charge the maximum fare, and no lower. This flew directly in the face of the ordinance, which was intended to promote fare competition in the Anchorage taxicab industry. The companies were not "expressly required" by Anchorage ordinance to fix prices, and thus their private activity could be challenged under the anti-trust laws. AS 45.50.572(g). The municipality was not involved in this price-fixing, and thus the municipal exemption did not apply.


We do not have any specific information concerning how municipal regulation of taxicabs has been beneficial or detrimental to consumers. As you are probably aware, this has been the subject of much debate in the Anchorage Assembly over the last year. Assemblyman John Wood has very strong opinions on the subject, and may be better able to assist you in this regard.

Please feel free to call if you have any questions, or if I can be of any further assistance in this matter.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Richard D. Monkman
Assistant Attorney General
Antitrust Section

RDM:and

Enclosure

cc: Art Peterson,
Assistant Attorney General
Juneau

UNIVERSITY OF WASHINGTON
SEATTLE, WASHINGTON 98195

Graduate School of Public Affairs, DP-30

April 18, 1985

Rep. John E. Binkley
Pouch V
Juneau, Alaska 99811

Dear Representative Binkley:

This is in response to your request for information concerning the advisability of municipal regulation of taxis. I enclose a copy of an article of mine that recently appeared in Regulation magazine, published by the American Enterprise Institute, and an editorial of mine that appeared in February in the Post Intelligencer.

One justification for state enabling legislation is that taxis are a local matter with at least an arguable need for regulation and that therefore these basic decisions to regulate or not, and the form of the regulation, are best left to local control.

My experience suggests, however, that the state may be able to give some guidance to municipalities in the form regulation might take.

It is useful at the outset to distinguish safety and quality regulation from price and entry regulation. Most municipalities regulate through inspector or other provisions, the safety of cabs. Many have insurance requirements and bonding requirements. Some municipalities also require drivers to pay taxes ensuring knowledgeable drivers. There is little disagreement with the proposition that municipalities should be free to pass these sorts of quality and safety regulations as they deem proper.

The controversy concerns entry and price regulations. In communities where there is a reasonably high proportion of radio dispatch calls for cabs, as opposed to customers gained through cruising taxis, neither minimum fare regulations nor entry restrictions are desirable on economic grounds. This is because competition works well in the radio dispatched market to hold fares down and to provide the proper amount of cabs. My recommendation based on examining the experience in other cities is that in this situation all that is needed is a price ceiling.

Unfortunately, taxis are usually a better organized political force than consumers at the municipal level. And many municipalities set minimum rather than maximum fares and regulate entry -- at the expense of taxi customers.

Thus, from my perspective it would be nice if the state could encourage

April 18, 1985
Rep. John E. Binkley
page 2

municipalities to set a fare ceiling and not set minimum fares or limit entry, where this is inappropriate.

If I may be of further service let me know.

Sincerely,

Richard O. Zerbe

Richard O. Zerbe, Jr.
Professor

ROZ:kk



FEDERAL TRADE COMMISSION

Seattle Regional Office
2806 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4656

February 11, 1985

Assemblyman John Wood
4757 Business Park Blvd.
Anchorage, Alaska 99503

Dear Assemblyman Wood:

As you requested, we are sending you information on recent Commission activity concerning taxicab regulation along with our views on your proposed ordinance AO #84-251. The ordinance would provide for the issuance of an increase of 25 new taxicab permits or a 25 percent increase in the total number of permits each year, whichever is greater. I understand that two alternative ordinance provisions also are being considered calling for (1) a 10% annual increase in permits or (2) hearings upon application for one or more new permits to determine the public convenience and necessity of new permits. We are grateful for this opportunity to present our views and hope they will be of assistance to the Assembly in its consideration of this legislation.

This letter represents the views of the Seattle Regional Office and the Bureaus of Competition, Economics, and Consumer Protection of the Federal Trade Commission. The views expressed here are not necessarily those of the Commission or of any individual Commissioner, although the Commission has authorized the presentation of these views.

As you may know, the Federal Trade Commission staff has had an interest in the competitive effects of taxicab regulation for some time. As long ago as 1978 the Seattle Regional Office submitted comments in support of the deregulation of taxicabs in that city. More recently the Commission staff has submitted its views on legislation relating to taxicab regulation to the city governments of Seattle, Chicago, San Francisco, and the District of Columbia as well as to the Colorado State legislature. Such comments are consistent with the Commission's dual goals of promoting competition and protecting consumers.

In 1984 the Commission issued complaints¹ against the municipal governments of Minneapolis and New Orleans for engaging in regulatory activities that had the effect of limiting the number of taxicab licenses, increasing fares, and eliminating

¹ The Commission vote on issuing these complaints was 3-2, with Commissioners Bailey and Pertschuk dissenting.

competition. The complaints indicated that the Commission had reason to believe that the two cities, in concert with local cab companies, had violated the antitrust laws, by restricting entry into the market without having been sufficiently authorized to do so by the state legislature. The state of Louisiana later passed a law permitting its cities to regulate taxicab entry and fares. On the other hand, Minneapolis joined those cities that have chosen to permit more competition among taxicabs by amending its ordinance to permit more entry.

At the same time the Commission issued these complaints, it also released a 176-page report entitled "An Economic Analysis of Taxicab Regulation" by its Bureau of Economics. The principal conclusion of this study is that no persuasive economic rationale exists for restrictions on the total number of taxicabs. The study found that such restrictions waste resources, harm consumers, and impose a disproportionate burden on low income people. By contrast, the report supports in principle other kinds of taxicab regulations dealing with vehicle safety and liability insurance. I understand that you already have a copy of the Bureau of Economics report.

The conclusions of the Commission's Bureau of Economics study are not unique. Another recent study, commissioned by the U.S. Department of Transportation, concluded that the combination of restraints on entry of new cabs and regulations preventing fare discounting cost consumers nearly \$800 million annually and the loss of 38,000 jobs in the taxi industry. Anchorage recently began to allow fare competition. Enactment of the proposed ordinance will lift entry restrictions and is likely to further benefit consumers and suppliers of taxicab services in Anchorage.

Citizens of Seattle, Washington have been enjoying the benefits of deregulation since 1978. During that time, over 200 new jobs for cab drivers have been created. Waiting times for cabs have dropped with the greater number of cabs available. Fares have risen more slowly than transit prices generally. Taxi fares in Seattle are currently approximately 10-15 percent lower than what we estimate they would have been under continued regulation.² Despite efforts to reinforce entry and fare regulations, the city of Seattle has thus far rejected proposals to reestablish such regulations. Other cities that have benefitted from reform of taxicab regulations to permit more entry include Milwaukee and Madison, Wisconsin; Jacksonville, Florida; Spokane, Washington; San Diego, Oakland, Berkeley, and Sacramento, California; and Phoenix and Tucson, Arizona.

² Zerbe, Seattle Taxis: Deregulation Hits a Pothole, Regulation, Nov./Dec. 1983 at 43.

An additional problem with restricted entry is that it affects most those consumers who are most dependent on cabs for transportation and the procurement of necessities: the handicapped, the poor, and the elderly. The members of those groups spend a larger proportion of their incomes on taxi rides than do other segments of the population. A recent study in Seattle indicated that such financially disadvantaged consumers make up 25 percent of total taxicab ridership.

Who gains from entry limitations like Anchorage's? The principal beneficiaries of maintaining the current system are the current holders of taxicab permits. Limitations on the number of permits enables the holders of these taxicab permits to earn supracompetitive profits. For example, we understand that the City of Anchorage charges \$750 per year for a permit. Owners of those permits typically resell them for as much as \$45,000. To cover such a high acquisition cost, the permit holder would have to collect \$12.50 a day from the cab driver using the permit.³ In other words, it would take more than a driver's first fare (on average) to pay this supracompetitive profit.⁴ This is in addition to the cost of purchasing or leasing a cab, the cost of gasoline and insurance, or a take home wage for the driver. This daily expense does not go to cover any of the real costs of providing service, nor is it a tax to maintain the streets. It is simply a cash transfer from consumers to permit holders.

Proponents of restricted entry typically argue that without entry restrictions there will be "too many" taxis. They argue that cab fares will increase and the quality of cabs, drivers and service will decrease. However, the value of a permit demonstrates conclusively that there are too few cabs. Deregulation does not mean letting anyone put any junk vehicle regardless of its condition on the road. There is nothing in the concept of free entry to prevent Anchorage from maintaining reasonable levels of safety and quality in the city's taxicab fleet and establishing reasonable skill and knowledge requirements for

³ At an annual interest rate of 10%, \$45,000 represents the capitalized value of a perpetual stream of profits of \$4,500 per year. For a cab in operation 360 days each year, \$12.50 must be collected each day to equal \$4,500 in one year.

⁴ The Alaska Attorney General's office estimates the average taxi fare to be about \$10. Anchorage Times, A-1, 12 (January 23, 1985).

drivers.⁵ Open entry means, rather, giving licensees who are qualified the chance to compete and giving consumers lower fares.

Open entry does not necessarily mean that new taxi cabs will simply charge the maximum fares now allowed by Anchorage. The actual fare will be set by competitive forces. Checker and Yellow Cab's recent experience of trying to charge \$2.00 per mile when rival Alaska Cab was charging \$1.40 per mile illustrates this effect.⁶ Newcomer Alaska Cab's market share went from approximately 12 percent to 70 percent in just 4 months according to estimates by the Attorney General's office. After that time, Yellow and Checker reduced their fares to \$1.40. Reports of the benefit of competition come also from Jacksonville, Florida, and Madison and Milwaukee, Wisconsin, to name a few. Special senior citizens discounts became available in Madison, Sacramento, and Tucson following deregulation.

Open entry does not mean that service will decline. Many cities report that service has improved under deregulation. In Jacksonville, Oakland and San Diego open entry led to an increase in fleet maintenance and a reduction in vehicle age as new fleets entered the market. In Milwaukee, Santa Barbara, and Seattle taxi competition reduced the waiting time for a cab.

Finally, open entry does not mean that all taxicab operators will go broke. As with most businesses, those operators offering higher quality service at lower prices will prosper while less competitive operators will not. This is precisely what happened in Anchorage in the beginning of 1984 and that experience illustrates how Anchorage taxicab consumers respond to competition.

The Assembly is considering three alternative ordinance provisions, all of which seek to ensure new entry but also restrict the amount of new entry. We believe that no entry restrictions beyond those for safe and competent service are necessary. We urge the Assembly to minimize any other restrictions on entry.

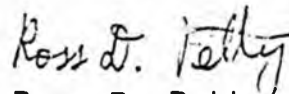
5 Section 11.10.080 of each of the proposals requires vehicle inspections to ensure safety. If the minimum levels for quality and safety were set arbitrarily high enough, they could act as de facto restrictions on entry. However, reasonable standards should not have any significant anticompetitive effect.

6 For a story on the related price-fixing settlement, see Anchorage Times, A-1, 12 (January 23, 1985).

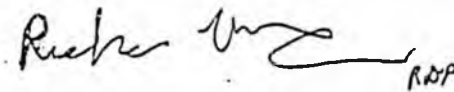
In sum, based on the economic evidence and recent experience throughout the country, we strongly support issuance of more taxicab permits in Anchorage. Freer entry into the taxicab business, consistent with maintenance of safe and competent service, will benefit Anchorage residents and visitors by reducing waiting times for taxis, fostering fare discounting, and creating employment opportunities.

We sincerely thank you for the opportunity to comment on the proposed ordinance AO #84-251.

Sincerely yours,



Ross D. Petty
Assistant Regional Director



Richard O. Zerbe, Jr.
Consulting Economist

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 376 (Trsp)
 Title : "An Act relating to municipal regulation of vehicles for hire..."
 Sponsor : Binklev / H. Trsp. Comm.
 Requestor : H. Community & Regional Affairs
 Date of Request : 2/03/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Motor Vehicles
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

This act doesn't directly affect the Department of Public Safety.

Prepared by : *K. Niles* Kathy Niles, Admin. Ass't Phone : 465-4336
 Division : Commissioner's Office Date : 2/03/86
 Approved by Commissioner : *[Signature]* Date : 2/3/86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note) :

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



PCUC-V
JUNEAU ALASKA 99811
19071485-4737
PO BOX 1000
BETHEL ALASKA 99559
19071543-2600

REPRESENTATIVE JOHNE BINKLEY

MEMORANDUM

TO: Rep. Rette Cato, Chairman
Transportation Committee

FROM: Rep. Johne Binkley *Johne B.*

DATE: April 15, 1985

RE: House Bill 376 - "An Act relating to municipal regulation of vehicles for hire" by Rep. Johne Binkley

Sectional Analysis

Sec. 1 Amends AS 29.48.035, adding a new subsection to read:

(d) Allows municipalities to license and regulate taxicabs and other vehicles for hire, allows them to fix, set and change rates, and they may regulate entry into the businesses.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSHB 376 (Trsp)
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REVENUE						

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GENERAL FUND						
FEDERAL FUNDS						
OTHER						
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FULL-TIME						
PART-TIME						
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Prepared by: K. Niles Kathy Niles, Admin. Ass't Phone : 465-4336
 Division : Commissioner's Office Date : 2/03/86
 Approved by Commissioner: [Signature] Date : 2/3/86
 Agency : Public Safety

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

RECEIVED JAN 22 1986

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 22, 1986

SUBJECT: Municipal regulation of vehicles for hire
(Work Order No. 14-1628)

TO: Senator John Sackett
Attn: Max Gifford

FROM: Michael F. Ford
Legislative Counsel

I wanted to point out two issues that will affect the draft I have prepared concerning municipal regulation of vehicles for hire. By initiative effective February 28, 1985, AS 29.35.140 was enacted which provides that a municipality may not regulate transportation of passengers if the regulation conflicts with regulations formerly in existence on April 1, 1983, adopted by the Alaska Transportation Commission under former AS 02.05, AS 42.07, or AS 42.10. Due to the time constraints of your work order, I have not yet determined if this draft is in conflict with the regulations. I have therefore assumed that a conflict does exist and given this work order a delayed effective date in order to avoid violating Article XI, section 6 of the Constitution of the State of Alaska, concerning repeal of an initiative.

I also wanted to point out that the initiative might not apply to home rule municipalities, in that the initiative does not amend AS 29.10.200, which is the section limiting home rule municipal powers. The initiative would apply to general law cities, boroughs, and unified municipalities.

Please let me know if you wish me to determine if the delayed effective date is necessary.

MFF:mkr
M2:065

Enclosure

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



PO BOX V
JUNEAU ALASKA 99801
(907) 485-4737
PO BOX 1088
BETHEL ALASKA 99559
(907) 543-2922

REPRESENTATIVE JOHNE BINKLEY

MEMORANDUM

TO: Rep. Bette Cato, Chairman
Transportation Committee

FROM: Rep. Johne Binkley *Johne B.*

DATE: April 15, 1985

RE: House Bill 376 - "An Act relating to municipal regulation of vehicles for hire" by Rep. Johne Binkley

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Sec. 1 Amends AS 29.48.035, adding a new subsection to read:

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FEDERAL TRADE COMMISSION

Seattle Regional Office
2806 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4655

April 18, 1985

The Honorable John Binkley
Alaska House of Representatives
Pouch W
Juneau, Alaska 99821

Dear Representative Binkley:

As your staff member, Marybeth Hilburn, requested, I am enclosing some materials on taxicab regulation. The first item is a letter we sent to John Wood of the Anchorage Assembly supporting the issuance of additional taxicab permits. I am also enclosing a report on taxicab regulation prepared by the FTC's Bureau of Economics.

In our conversation, Ms. Hilburn suggested that perhaps it is appropriate to let cities resolve municipal regulatory questions without interference from state or federal authorities. I think that viewpoint overlooks a more basic question, which is why should cities be given the authority to supplant free market competition? It is the mission of the Federal Trade Commission to protect the opportunity of business people, such as taxicab operators, to compete freely. Our report, as well as others cited in the Anchorage comments, indicates that fare and entry regulation cause consumers to pay higher fares and restrict the opportunities for many people to operate taxicabs. For these reasons, the staff of the Federal Trade Commission have opposed regulation of the fares or entry of taxicabs. On the other hand, in the Anchorage comments, and comments to others, the staff of the Commission have supported municipal regulation in areas where the city has a legitimate interest, such as vehicle safety and operator competence.

Ms. Hilburn explained that you have proposed a bill to authorize the regulation of taxicabs by municipalities in Alaska. If you so request, I would be happy to arrange formal, Commission-approved, staff comments on your specific proposal. I should forewarn you that normally the approval process takes at least a couple of weeks after I receive your request and a copy of the bill itself.

Sincerely yours,

Ross D. Petty (ss)

Ross D. Petty
Assistant Regional Director

Enclosures



FEDERAL TRADE COMMISSION

Seattle Regional Office
2906 Federal Building
915 Second Avenue
Seattle, Washington 98174
(206) 442-4655

February 11, 1985

Assemblyman John Wood
4757 Business Park Blvd.
Anchorage, Alaska 99503

Dear Assemblyman Wood:

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The conclusions of the Commission's Bureau of Economics study are not unique. Another recent study, commissioned by the U.S. Department of Transportation, concluded that the combination of restraints on entry of new cabs and regulations preventing fare discounting cost consumers nearly \$800 million annually and the loss of 38,000 jobs in the taxi industry. Anchorage recently began to allow fare competition. Enactment of the proposed ordinance will lift entry restrictions and is likely to further benefit consumers and suppliers of taxicab services in Anchorage.

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² Zarbe, Seattle Taxis: Deregulation Hits a Pothole, Regulation, Nov./Dec. 1983 at 43.

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4 The Alaska Attorney General's office estimates the average taxi fare to be about \$10. Anchorage Times, A-1, 12 (January 23, 1985).

drivers.⁵ Open entry means, rather, giving licensees who are qualified the chance to compete and giving consumers lower fares.

Open entry does not necessarily mean that new taxi cabs will simply charge the maximum fares now allowed by Anchorage. The actual fare will be set by competitive forces. Checker and Yellow Cabs' recent experience of trying to charge \$2.00 per mile when rival Alaska Cab was charging \$1.40 per mile illustrates this effect.⁶ Newcomer Alaska Cab's market share went from approximately 12 percent to 70 percent in just 4 months according to estimates by the Attorney General's office. After that time, Yellow and Checker reduced their fares to \$1.40. Reports of the benefit of competition come also from Jacksonville, Florida, and Madison and Milwaukee, Wisconsin, to name a few. Special senior citizens discounts became available in Madison, Sacramento, and Tucson following deregulation.

Open entry does not mean that service will decline. Many cities report that service has improved under deregulation. In Jacksonville, Oakland and San Diego open entry led to an increase in fleet maintenance and a reduction in vehicle age as new fleets entered the market. In Milwaukee, Santa Barbara, and Seattle taxi competition reduced the waiting time for a cab.

Finally, open entry does not mean that all taxicab operators will go broke. As with most businesses, those operators offering higher quality service at lower prices will prosper while less competitive operators will not. This is precisely what happened in Anchorage in the beginning of 1984 and that experience illustrates how Anchorage taxicab consumers respond to competition.

The Assembly is considering three alternative ordinance provisions, all of which seek to ensure new entry but also restrict the amount of new entry. We believe that no entry restrictions beyond those for safe and competent service are necessary. We urge the Assembly to minimize any other restrictions on entry.

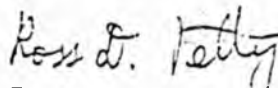
5 Section 11.10.080 of each of the proposals requires vehicle inspections to ensure safety. If the minimum levels for quality and safety were set arbitrarily high enough, they could act as de facto restrictions on entry. However, reasonable standards should not have any significant anticompetitive effect.

6 For a story on the related price-fixing settlement, see Anchorage Times, A-1, 12 (January 23, 1985).

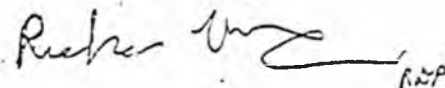
In sum, based on the economic evidence and recent experience throughout the country, we strongly support issuance of more taxicab permits in Anchorage. Freer entry into the taxicab business, consistent with maintenance of safe and competent service, will benefit Anchorage residents and visitors by reducing waiting times for taxis, fostering fare discounting, and creating employment opportunities.

We sincerely thank you for the opportunity to comment on the proposed ordinance AO #84-251.

Sincerely yours,



Ross D. Petty
Assistant Regional Director



Richard O. Zerbe, Jr.
Consulting Economist

STATE OF ALASKA

MEMBER
FINANCE COMMITTEE
SPECIAL COMMITTEE ON FISHERIES



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JUNEAU ALASKA 99811
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REPRESENTATIVE JOHNE BINKLEY

January 28, 1986

TO: Representative Peter Goll
Chairman
Community and Regional Affairs Committee

From: Representative Johne Binkley

A handwritten signature in dark ink, appearing to read "Johne Binkley", written over the printed name.

Re: House Bill 376

House Bill 376 (CS Transportation) is now in your Committee. It provides local municipalities the statutory authority to regulate entry into the business of taxicabs, limousines, and other vehicles for hire. Further, the municipality may license, control and regulate the above, as well as fix, establish, and change rates charged for the service.

To explain the purpose of the bill, the Attorney General states; House Bill 376 does not appear either to add or subtract from this authority, although it sets out the authority somewhat more cogently than present law."(AS 29.48.035)

I am requesting the Committee members consider a slight change suggested by Legislative Legal Services-on lines 12 and 16 change "other vehicles" to read "other passenger vehicles". Also, please consider deleting Sec. 2 which is not necessary nor desirable.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 24, 1985

The Honorable John Binkley
Representative
Pouch V
Juneau, AK 99811

Re: House Bill 376

Dear Representative Binkley:

Attorney General Gorsuch has referred your letter of April 17, 1985 to this section for comment.

The proposed legislation would not change the existing municipal exemption from antitrust liability as regards taxicab regulation. AS 29.48.035 gives municipalities authority to "regulate ... vehicle ... traffic, and licensing and operation of motor vehicles" [AS 29.48.035(a)(1)], to "regulate ... licensing of drivers of taxicabs, for-hire automobiles, motor buses, or other vehicles for the transportation of passengers" [AS 29.48.-035(a)(2)], and to "regulate ... transportation fares" [AS 29.-48.035(a)(4)]. This broad grant of authority would seem to cover all aspects of the taxicab industry. House Bill 376 does not appear to either add to or subtract from this authority, although it sets out the authority somewhat more cogently than present law.

Because the present law grants municipalities such broad authority, the municipalities are exempt from both state and federal antitrust liability. Parker v. Brown, 317 U.S. 341 (1943); Golden State Transport v. City of Los Angeles, 726 F.2d 1430 (9th Cir. 1984). House Bill 376 would not affect the exemption. Commissioner John Pugh, Department of Health and Social Services, recently requested our opinion about an analogous situation involving municipal regulation of ambulance services. A copy of our opinion is attached for your information.

The Anchorage price-fixing case you mention did not involve application of the municipal antitrust exemption. Anchorage ordinances allow private taxicab companies to set whatever fares they choose, up to a maximum charge. Two competing

taxicab companies, it was alleged, got together and agreed to charge the maximum fare, and no lower. This flew directly in the face of the ordinance, which was intended to promote fare competition in the Anchorage taxicab industry. The companies were not "expressly required" by Anchorage ordinance to fix prices, and thus their private activity could be challenged under the anti-trust laws. AS 45.50.572(g). The municipality was not involved in this price-fixing, and thus the municipal exemption did not apply.


We do not have any specific information concerning how municipal regulation of taxicabs has been beneficial or detrimental to consumers. As you are probably aware, this has been the subject of much debate in the Anchorage Assembly over the last year. Assemblyman John Wood has very strong opinions on the subject, and may be better able to assist you in this regard.

Please feel free to call if you have any questions, or if I can be of any further assistance in this matter.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Richard D. Monkman
Assistant Attorney General
Antitrust Section

RDM:and

Enclosure

cc: Art Peterson,
Assistant Attorney General
Juneau

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPTIVE
JUNEAU ALASKA 998
907 463 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

January 27, 1986

SUBJECT: Municipal regulation of vehicles for hire
CSHB 376 (Transp)

TO: Representative John E Binkley

FROM: Michael F. Ford
Legislative Counsel

This is to follow up my memo of January 22, in which I advised you that AS 29.35.140 enacted by initiative effective February 28, 1985, may affect the power of a municipality to regulate transportation of passengers for hire. I have completed a review of this issue and now believe that the initiative does not apply to municipal regulation of taxicabs, limousines or other passenger vehicles for hire. Therefore, there would not be a need to delay the effective date of the Act. The initiative would apply to certain vehicles for hire used to haul freight. Such a vehicle would meet the definition of "common carrier" under regulations previously adopted by the Alaska Transportation Commission. Therefore, a municipality that wished to adopt regulations for this type of vehicle would be affected by the initiative, and would need to comply with regulations adopted by the Alaska Transportation Commission.

Also, I would suggest that the work order be changed on lines 12 and 16 from "other vehicles" to read "other passenger vehicles" in order to avoid the issue concerning "common carriers" reoccurring in the future. Please contact me if you have any questions.

MFF:mkr
M2:089

International Taxicab Association

3849 FARRAGUT AVENUE

KENSINGTON, MARYLAND 20895

TELEPHONE (301) 946-5700

May 2, 1985

The Honorable John Binkley
Pouch V
Juneau, AK 99811

Dear Mr. Binkley:

The International Taxicab Association and its members applaud your effort to protect the right of Alaska's municipalities to regulate taxicab operations.

Recently, the states of ~~California, Louisiana, Virginia and Washington~~ have passed laws to grant their cities "express" authority to regulate taxicab entry and fares. These laws were drafted specifically to protect their cities from potential charges of antitrust violations.

We also know that each of the following states have granted explicit authority to regulate taxicab entry and/or fares: ~~Alaska, Colorado, Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Michigan, Mississippi, Missouri, Nevada, New York, North Carolina, Oklahoma, Pennsylvania, Rhode Island, Vermont, and West Virginia.~~

Most of the remaining states ~~believe that they have granted their local governments the right to regulate taxicabs,~~ but we are uncertain as to the basis for their belief. In many cases they have state court decisions supporting taxicab regulation, but we are not sure this would be sufficient should a case be taken to the U.S. Supreme Court.

If you or your staff have any questions, please do not hesitate to contact me.

Sincerely,


Alfred B. LaGasse, III
Executive Vice-President

ABL:bk

Enclosures



SPECIAL REPORT

INTERNATIONAL TAXICAB ASSOCIATION

3849 Farragut Avenue
Kensington, Maryland 20895
Telephone: (301) 946-5700

VOLUME VI NO. 2

APRIL 30, 1985

FTC DROPS TAXICAB SUIT

Several important developments took place recently which affect the right of cities to regulate taxicab entry and fares.

During a public hearing on the Federal Trade Commission's (FTC) 1986 budget, Senator Hollings (D-SC) asked FTC Chairman Miller, "Last year we had quite a debate over the intrusion of the FTC into municipal regulatory matters. The particular matter that aroused our interest was the suits the Commission had brought against the cities' regulation of taxicabs. What is the present status of those suits?"

Mr. Miller replied, "After a change in state law, the ~~Massachusetts~~ case was withdrawn from adjudication. ~~As a result of the Bureau of Competition staff to withdraw the Minneapolis case is pending before the Commission.~~"

When asked what other municipal actions the FTC is investigating, Mr. Miller said, "No other investigations currently underway involve cities. On a related matter, however, the Commission is investigating complaints of anti-competitive effects in the market for automobiles available for rental at airports."

SUPREME COURT EXPANDS ANTITRUST IMMUNITY

In a separate but related event, the U.S. Supreme Court rendered two extremely important ~~decisions~~ ~~which~~ ~~will~~ ~~serve~~ ~~to~~ ~~further~~ ~~expand~~ ~~the~~ ~~scope~~ ~~of~~ ~~antitrust~~ ~~immunity~~ ~~for~~ ~~cities~~ ~~and~~ ~~members~~ ~~of~~ ~~public~~ ~~utilities~~.

Enclosed is an analysis of the two decisions. The four-page analysis was prepared for you by ITA's legal counsel.

TAXICAB REGULATION AND THE ANTITRUST LAWS

By Arthur L. Herold

On March 27, 1985 the ~~United States~~ Supreme Court rendered two decisions which should have a profound impact upon the immunity of taxicab regulators, primarily cities and other local authorities, and taxicab companies from the federal antitrust laws. The two cases, Town of Hallie v. City of Eau Claire and Southern Motor Carriers Rate Conference v. United States, involved the antitrust immunity of cities and members of regulated industries, respectively. The Supreme Court effectively expanded the scope of that immunity, thereby increasing the likelihood that ~~municipal regulation of taxicab rates and entry will be found to~~ be lawful.

The federal antitrust laws prohibit agreements between competitors which unreasonably restrict trade. Perhaps the most obvious form of antitrust violation is the blatant price-fixing agreement between competitors. Not as obvious, however, is the status of a price-fixing agreement which is compelled, authorized, ratified, or permitted by a state or municipal entity. In a long series of cases, beginning with Parker v. Brown in 1943, the Supreme Court has attempted to define the applicability of the federal antitrust laws to otherwise unlawful governmental actions and private party activities which are taken pursuant to a state or local regulatory system.

In Parker v. Brown, the Court held that the federal antitrust laws do not apply to the actions of a state because, in our federal

system of government, states are sovereign entities and the federal government has no authority to regulate even their anti-competitive actions. Cities and counties, however, do not enjoy the sovereignty that the states have. In City of Lafayette v. Louisiana Power & Light Company, the Supreme Court suggested, but did not decide, that a municipality would be immune from the federal antitrust laws only if it could show (1) that it acted pursuant to a clearly articulated state policy authorizing the replacement of competition with regulation, and (2) that its municipal regulation was actively supervised by the state.

Perhaps the most publicized Supreme Court case dealing with the state action antitrust exemption was Community Communication Co. v. City of Boulder, decided in 1982. In that case, a cable television company excluded from the local Boulder market by virtue of the city's grant of an exclusive license to one of its competitors sued the city under the federal antitrust laws. The Supreme Court ruled that the city was not immune from the anti-trust laws because the State of Colorado, while having conferred upon the City of Boulder general authority to govern local affairs, had not enacted legislation authorizing anticompetitive conduct with respect to the regulation of cable television. The Court did not address the question of active state supervision in the City of Boulder case.

Until March 27, 1985, the Supreme Court had not actually decided whether a municipality needed to show that its anti-competitive regulatory system was actively supervised by the

state in order to be immune from the antitrust laws.¹ In Town of Hallie the Court decided that municipalities are immune even if the state does not actively supervise the municipal conduct. Thus, cities and counties which regulate taxicab entry and rates, or which grant exclusive taxicab licenses for airport service, will be immune from suit under the federal antitrust laws if their state legislatures have enacted laws authorizing that type of regulation. The legislature need not have compelled the regulation, but it must be clear that the legislature contemplated the kind of action undertaken by the county or municipality.

Counties and municipalities which regulate taxicab operations pursuant to state statutes may be immune from the reach of the antitrust laws under Town of Hallie, but what of the private parties, the taxicab companies, which propose rates or obtain exclusive licenses under the umbrella of county or municipal regulation? For a number of years it had been thought that private parties could obtain antitrust immunity only by showing (1) that their anti-competitive conduct was compelled, not merely authorized, by the state, and (2) that the state actively supervised that conduct. In the Southern Motor Carriers case, the Supreme Court ruled that private parties need not show that their anticompetitive conduct is compelled by the state; state permission of the conduct, plus state supervision, is sufficient.

¹ The Local Government Antitrust Act of 1984, which became effective on September 24, 1984, did grant municipalities exemption, in the future, from damage suits under the anti-trust laws. It did not grant immunity from antitrust suits seeking injunctions, however.

The Supreme Court still has not ruled in the context of private party immunity when the actions complained of are undertaken pursuant to county or municipal, as opposed to state, regulation. It would appear, however, that this type of activity would be immune from antitrust attack if the regulatory system is authorized or permitted by the state and if the county or municipality actively supervises that system. Thus, if those who regulate taxicab rates and entry are immune, it is likely that those who are regulated, namely, the taxicab companies, will also be immune.

One thing that neither Town of Hallie nor Southern Motor Carriers changed is the need for state legislation authorizing counties or municipalities to regulate taxicab rates, entry and contracts. Until such statutes are enacted, the threat of antitrust liability is a distinct possibility for those operating under local regulatory systems.

THE ROLE OF REGULATIONS FOR
MODERN LOCAL TRANSPORTATION SYSTEMS

presented by

Alfred B. LaGasse, III, Executive Vice President
International Taxicab Association

presented at

64th Annual Convention
Transportation Research Board

January 15, 1985

I. The Elements of Modern Local Transportation

Numerous people have given many definitions to the term paratransit, but for purposes of this presentation, let us say that it is the organized provision of local transportation in sedans, vans or mini buses. This definition includes taxicabs, limousines, jitneys, livery vehicles, social service agency vehicles, private non-profit agency vehicles, church vehicles, hotel courtesy vehicles, some transit agency vehicles, van pools, car pools and rental cars. The only elements of local passenger transportation not included in the term paratransit are private and public transit buses, school buses, local rail systems and the private automobile.

The topic being discussed is the role of regulations for local transportation, therefore, all elements of the local transportation system should be included in the review. Some may argue that subway systems, school buses, taxicabs and private automobiles should not be viewed as related elements of local passenger transportation. However, upon reflection, it becomes apparent that the transportation modes listed above make up today's family of local transportation service.

These modes of local transportation (paratransit, bus and automobile) account for over 97% of all trips with the other 3% being walks, cycles, flying, etc.¹ The next logical step is to agree that these services are interrelated. That is, the services impact (compete with) one another.* Some may have substantial

* The U.S. District Court in Hawaii ruled in November 1984 that an exclusive contract for taxicab service at Honolulu International Airport was legal. In his decision the judge notes "I find taxis, rental cars and the Grayline-Airporter bus to be reasonably interchangeable modes of ground transportation out of HIA."

impacts (e.g. when it snows people are reluctant to drive their private automobiles so the demand for taxicabs skyrocket) whereas others may, at first glance, appear to have little significance to the total transportation market and to other transportation providers.

The fact is, the removal of any one of these transportation modes would impact the other modes. The private auto is most significant (largest competitor) providing 83.7% of all passenger trips.² School buses are next in line carrying approximately 22.6 million school children per school day.³ Public transit carries 8.2 billion⁴ people a year followed by taxicabs which carry 1.87 billion people per year. When it comes to the other transportation modes, I would guess that their order of significance (measured by passengers carried) is: rental cars, social service and non-profit agency vehicles*, limousines and livery vehicles, car pools, van pools, church vehicles, hotel courtesy vehicles and jitneys.

All of these competing modes of local transportation are significant and should be taken into account when one examines or plans for a community's transportation network. However, laws, regulations and policies developed at federal, state and local levels have segmented local public transportation modes into distinct categories (e.g. mass transit vs. exclusive ride; public vs. private; taxicab vs. bus; etc.). Each of these modes are licensed and regulated separately.

Local elected officials most often determine policy (regulations) for taxicabs, limousines and school buses, while transit authorities and social service

* Social service and non-profit agency vehicles are rated high because they receive significant (approximately \$1.5 billion per year) capital and operating subsidies for transportation from the federal government (HHS & DOT).

agencies find themselves subservient to federal and state regulations. Forms of local transportation most free of regulation are church vehicles, hotel courtesy vehicles, rental cars and the private automobile.

The differing laws, regulations and policies most certainly serve to inhibit comprehensive planning for local transportation. Public transit receives billions of dollars annually in federal, state and local subsidies. The private auto is subsidized by an extensive and expensive roadway building and maintenance program. Private providers of local public transportation pay taxes and license fees not required of public operators. The list goes on.

A comprehensive review/plan would, therefore, require an analysis of federal, state, and local financial incentives (subsidies, taxes, fees) as well as operating regulations. Obviously, one community could not hope to change federal or even state tax laws and regulations. Therefore, planning focuses on the real market with all its financial and regulatory imperfections. The planning is not comprehensive, but rather it has been segmented for simplicity.

Taxicabs are not viewed in the context of providing less than 1% of the total trips⁵. Instead, taxicabs are viewed by the community planners as: 1) providing approximately 10% of the airport's ground transportation needs, 2) providing 24 hour service (emergency and otherwise) to everyone in town (particularly elderly and low income groups), 3) providing jobs for unskilled laborers and 4) meeting the transportation needs of out-of-town visitors (which is particularly important for a city's convention and tourist trade).

It is less effective to look at the taxicab industry in a vacuum, but for ease of administration that is exactly what must be done. The Urban Mass Transportation Administration is seeking to do away with some of the federal barriers

to comprehensive local planning (i.e. new 3e/8e policy issued October 22, 1984). There is hope that Congress will review the financial incentives and operating laws it has established that cause bias or interfere with local planning for transportation service. The fact remains, however, that communities throughout America will continue to segment the local transportation market by provider group (competing mode) because the institutions are already in place and there has not been, nor is there now, an outcry to change the system.

If one agrees that the mega institutions (e.g. Congress, DOT, HHS and States) which impact local transportation will not change significantly (regulations, subsidies & taxes) in the foreseeable future, this presentation, on the role of regulations for local transportation systems, must also be limited by the bounds of these institutions. The same limitations contribute to the failure of most economists who address local transportation systems. Their theories ignore the very complicated real world by imposing neat and precise models on what is really a complicated, and extremely imprecise world. President Reagan probably said it best a couple of months ago when he said, "There are too many economists with Phi Beta Kappa keys on their watch chains - and no watch."⁶

Reality, not desire, dictates a divergence from the development of a comprehensive transportation regulation to a review of regulations by market segments. Because my knowledge and experience is best suited to a review of the taxicab industry and, because taxicab regulations have recently been the subject of experimentation, the balance of this presentation will focus on the taxicab industry.

The taxicab industry is made up of approximately 4,040 organizations (companies, cooperatives, associations, etc.) which operate 141,000 vehicles.

One-half of the industry's vehicles are located in the 100 largest urban areas. Approximately 87% of the vehicles are four-door sedans with the remaining 13% being vans, limousines, buses, etc. The industry directly provides 240,000 jobs, 87% of which are held by drivers. Transporting 1.87 billion passengers per year, the industry grosses \$4.42 billion per annum.⁷

The stereotype of the typical taxicab driver and his/her passenger is incorrect. In truth, the average driver leases the taxicab (independent contractor), has worked in the same taxicab organization for nearly 4 years and drives full time.⁸ Approximately 60% of all taxicab passengers are transportation disadvantaged (e.g. elderly, young, handicapped, unemployed) while the remaining 40% of the passengers are tourists, businessmen and members of affluent households.⁹

Not only are the drivers and riders different from the stereotype, but the services provided also differ. Only 82% of the taxicab organizations provide exclusive ride service, while 75% offer package delivery, 62% offer contracted services, 47% offer shared rides and 17% offer limousine service. Also, 37% of all taxicab organizations offer fare discounts to the elderly.¹⁰

Hopefully, you now have a more accurate perspective of the size of the taxicab industry and the magnitude of its competitors. It is also hoped that you understand that comprehensive planning (regulation) of all local transportation modes is preferable, but, at this point in time, impractical. Speculation and theories have a role to play, particularly in charting desirable future courses, but we are here today to deal with current reality.

II. Current Taxicab Regulations

In reality, the taxicab industry is extensively regulated. The four primary areas of regulation are entry (number of vehicles and/or companies), fares, safety (insurance, driver licensing) and quality of service (vehicle, conduct of drivers, radio dispatch). Regulation extends to a variety of items including: the number and type of vehicles, fares charged, trade name, color scheme, insurance levels, license fees, inspections, driver licensing, owner's moral character, permissible solicitations, placement of cab stands, 24 hour service, two-way radios, meters, etc.

Current regulations trace a heritage to London, England in the year 1635. King Charles, I restricted the number of paratransit vehicles (horse drawn carriages for hire). Nearly 200 years later, the London Hackney Carriage Act of 1831 became the first comprehensive paratransit regulation to be developed. The regulations were added to again in 1843.¹¹ These time tested regulations essentially compose today's taxicab ordinances.

To those who may now be saying, "if taxicab regulations haven't been substantially altered in over 150 years, it is high time they be improved and modernized" Remember that "those who fail to remember history are condemned to repeat it". Nearly every imaginable change has been tried with taxicab ordinances. While some improvements have been made, in other instances, harm has resulted.

Before outlining some regulatory changes which I believe should be considered, let us review and learn from several documented regulatory experiments.

Cities that have been extensively studied and which are now or have recently experimented with their taxicab regulations are: Atlanta, Georgia; Indianapolis, Indiana; Phoenix, Arizona; San Diego, California; Seattle, Washington; and Washington, D.C. All are major metropolitan cities with a significant tourist and convention trade.

Atlanta allowed taxicab open entry in the mid 1960's primarily to merge its taxicab and private car service industries. This action was viewed as a civil rights issue because private car services were operated by blacks while taxicabs were operated by whites. In ten years, the number of taxicabs doubled to 1,400 and the number of companies grew from 5 to 55. Atlanta allowed open entry, but continued to set a uniform fare and regulate safety and service quality.

In early 1977, a task force recommended that Atlanta's taxicab ordinance be totally revised. One year later, Atlanta's Chamber of Commerce joined the call for improved taxicab regulations. A Chamber funded research project found driver income to be extremely low and reported that, "What this means in terms of taxicab drivers is that the rip-off becomes a frequent occurrence... insults to riders and inadequate service abound... It is important to note that this has occurred as a result of the influx of unqualified, casual drivers..."¹²

On February 3, 1981, Atlanta enacted a new taxicab ordinance. The ordinance (in effect today) limits entry (attempting to reduce the number of taxicabs from 1,500 to 1,200), establishes uniform fares and regulates safety and quality. Open entry did not meet Atlanta's requirements for quality taxicab service.*

* A summary of a U.S. District Court ruling upholding the right of Atlanta to

Indianapolis' experience with open entry is worth reviewing because city officials administratively enacted open entry without changing the ordinance-- they simply issued new permits. Open entry was brought about primarily by the bankruptcy of the major fleet which had operated 302 of the city's 502 taxicabs. Open entry began in 1973 and, within one year, the city decided to return to restricted entry. In this case, all regulation (uniform fares, safety and quality) and enforcement remained constant with the lone exception of entry.

A DOT sponsored study reviewed Indianapolis' experience with open entry as follows:

"After the first winter the independent operators found they had no money to maintain or repair their vehicles. Insurance cancellation notices received by the City Controller's Office increased from one or two per month to about one hundred fifty per month. Complaints to the City about cab service tripled...the cab driver often could not be found...service complaints were particularly high in relation to airport taxi business. From the City's standpoint, enforcement became a major problem...added to these difficulties was a reported rise in the amount of crime committed by taxi drivers and operators. In 1977 it was discovered that one firm of 18 cabs was operating a drug ring which was the largest such drug operation ever uncovered in the City. At least one prostitution ring run by a taxicab operator was also uncovered. The reported rapes and robberies committed by taxi drivers also increased."¹³

Needless to say, open entry did not meet Indianapolis' desire for a stable taxicab industry.

The State of Arizona deregulated its entire transportation industry (buses, trucks, taxicabs) in 1982. Phoenix, therefore, differs significantly from Atlanta and Indianapolis for several reasons. In Phoenix, there was state regulation instead of municipal regulation, and open entry was combined with open fares and the removal of quality of service regulations. The only element which continued to be regulated was safety (licensing, vehicle inspections). Therefore, Phoenix does provide a rare example of what happens when an entire local transportation system is deregulated. The results are

disappointingly similar to cities which allowed open entry exclusively in the taxicab segment of the local transportation market. That is, fares rose, demand for service dropped, there was no service innovation and the airport had significant new problems.

Where there was once two companies operating 240 vehicles there are now forty-five companies operating 440 vehicles. Other results were reported in a DOT sponsored study as follows:

"After deregulation, Yellow/Checker increased its fares to \$1.20 per mile (retaining the \$.85 drop charge) and \$12.00 per hour waiting time. This represents an increase of 33% for the average four mile trip...the lowest [increase in fares] in Phoenix...there has been essentially no service innovation...taxi patronage has declined since deregulation, in spite of the substantial increase in the number of cabs...The number of passenger trips per active taxicab per day has declined by about 33% for the entire industry...Consequently, deregulation has had virtually no effect on automobile users and transit dependent travelers."¹⁴

By any measure, total deregulation in Arizona has not provided the innovation and competition promised by the economists. In all fairness, however, it should be noted that Phoenix's publicly owned transit system continued to receive federal and state subsidies and tax preferences which, most certainly, affected the private operators' ability to compete.

Planners in San Diego, more than any other city, seemed to work very hard at developing a rational, contemporary paratransit ordinance. They studied the issue and received federal funds to aid their data collection and evaluation efforts. Not only was their movement toward open entry more thoughtful and calculated, but several factors indicate that an increase in taxicab supply was fully warranted.

In 1979, San Diego allowed gradual open entry (15 new taxicab permits per month), removed fare controls and allowed jitneys to operate. Prior to open entry, 68 companies operated 409 taxicabs serving the city with a quickly

expanding population and a burgeoning convention and tourist trade. Today, there are 310 companies operating 915 taxicabs.

A DOT sponsored study reported:

"The average fare for exclusive ride taxi service in San Diego has risen over 60%, from \$4.50 for a 5 mile trip in July 1979 under the pre-revisions standard to \$7.25 as of December 1981...little real pricing innovation...there were 30% more vehicles but each vehicle was providing only 85% as much service per day...suggest little or no increase in total geographic service coverage...the primary changes in taxi user profiles observed over three years of Taxicab Passenger Profile Surveys (PPS) include a higher incidence of more affluent, visitor and less frequent taxi trip-makers, a reduction in low-income, resident and young riders and in military personnel... City documentation of regulatory costs, still incomplete, suggests that annual regulatory costs have increased by 158%."

In May of 1983, San Diego imposed a one year moratorium on the issuance of new taxicab permits and limited transfer of permits. In October of 1984, San Diego permanently restricted taxicab entry and has cracked down even further on permit transfers. Open entry did not create fare competition, service innovation or the improved service quality hoped for in San Diego.

The City of Seattle, and a year later its surrounding King County, changed its taxicab ordinance (May 1979) as a result of a sweeping review of all City regulation of private industry. Seattle's open entry ordinance replaced the taxi-to-population ratio (1 taxicab for every 2,500 Seattle residents) that had previously existed. The ordinance also deregulated fares (could be changed once per quarter) and there was an effort to encourage variable fares for shared rides and weekend service.

For Seattle, the DOT sponsored study stated:

"First, exclusive ride taxi rates have risen faster under open rate setting than they likely would have under continued standardization. Average fares for a five mile taxi trip in Seattle rose some 72% from \$4.30 under the pre-revision standard to \$7.40 through April 1982...the primary innovations have been in the form of discounts offered to repeat, advance reservation and long-haul customers, and

higher rates for nighttime service or short trips... veteran operations predicted that the new single-cab companies would "skim the cream" off the traditional taxi business, garnering a disproportionate share of long-haul trips to the exclusion of a balanced city wide service delivery. This result has been documented...there were 51% more vehicles in May 1981 but each vehicle was only providing about 76% as much service...suggest little or no increase in total geographic service...The three large service companies refused 10% of their calls, while independent fleet operator turned down 37%...The median vehicle age was four years in mid 1979 and had increased to six years by the close of 1981...suggest that total passenger trips declined 25% between 1979 and 1981."¹⁶

The city of Seattle is still experimenting with open entry, but for King County, the experiment is over. In October of 1984, the County restricted entry (one year moratorium) and imposed a uniform fare.

Washington, D.C. is the only major city in America to have long term experience and acceptance of open entry. Washington does regulate safety and quality, and has established a uniform fare.

The citizens of ~~Washington, D.C.~~ have never experienced anything but the current mode of taxicab regulation. Some ordinance changes have been made, (e.g. shared rides used to be provided at the driver's discretion and are now subject to the first passenger's approval) but overall, Washington has not spent much time examining its taxicab regulations.

The City estimates that 11,000 people are licensed to drive taxicabs, that there are approximately 9,604 vehicles operating as taxicabs and that 8,550 monthly insurance stickers are routinely issued.

A newly released study indicates that:

"...the average driver worked 5.5 hours per day...the average taxicab on the street is about nine years old...in the first ten months of 1984 the Department received approximately 900 written complaints...the two most prevalent causes of complaints are refusal to serve (23.6%) and over-charging (22.0%)...in-vehicle data collection [was performed in October 1984]...of the total 305 trips attempted,

13 were refused...in addition 17 were no shows...the driver over-charged in 102 cases or 36.3%...the average over-charge was 22.3%..."¹⁷

Although the city of Washington may be hesitant to change its taxicab ordinance, it is probable that not too many other cities would accept the extremely high incidence of over-charging and trip refusals so prevalent in D.C. It is difficult to call to mind another city that would tolerate vehicles that are an average of 9 years old.

In summary, regulatory relaxation, when focused primarily or exclusively on taxicabs, has not provided the results economists have promised. Open entry does not bring about service innovation or service area expansion. On the contrary, the evidence indicates that open entry produces inferior service (e.g. older equipment, increased service refusal, increased price gouging and increased administrative costs) which leads to reduced demand for taxicab service.

Likewise, total fare decontrol does not lead to variable fares for peak and off peak service, but rather leads to inflated fares which serve to further reduce demand for taxicab service.

III. Reasonable Taxicab Regulatory Reforms For Major U.S. Cities

While I represent the taxicab industry, I have never been a taxicab operator. The following comments are my personal views. The members and Board of Directors of the International Taxicab Association have not reviewed these remarks and have not endorsed or even formally discussed these concepts.

Entry restrictions may need to be reviewed. Approximately 88% of all communities having taxicabs control entry. Of the 12% which do not control entry, half (6% of all communities having taxicabs) have never controlled entry and currently have a total of 10 or fewer taxicabs operating in their city.¹⁸

Open entry is not the answer to a community's legitimate desire to improve its taxicab/paratransit service. The emotional and political upheaval caused by merely mentioning open entry, coupled with its failure to "improve" the industry, should make it plain that it is not the answer. However, a fixed ceiling on permits may also not be the answer.

I believe that reasonable entry standards are the key to proper regulation. Convenience and necessity or population ratio standards are flexible and when properly administered, are successful. The key here is proper administration. With population ratios, (# of taxicabs per 1,000 population) it is easy to determine when more licenses could be issued. The difficulty is determining the proper ratio. Should the ratio for a densely populated city be the same as a sprawling, less dense city? Should local trip patterns (e.g. reliance on public transit vs. the private automobile) be taken into consideration in determining ratios?

If the city chooses to control entry by a convenience and necessity clause, then how is convenience and/or necessity measured? Should a formula which takes into account population changes, tourist influx, public transit ridership, disembarking airplane passengers, etc., be developed? If the answer is yes, how would the formula be created, measured and implemented?

I favor the convenience and necessity clause that features a publicly known formula. The formula should be developed in consultation with elected city

officials, taxicab operators, public transit officials and public interest groups. All of the factors utilized in the formula must be measurable and routinely published (at least annually).

A method to appeal the components of the formula should be available in case any item(s) should reasonably be discounted as a one time temporary increase/decrease. Also, changes in industry efficiency (e.g. computer dispatching) may call for an adjustment in the formula. If the formula calls for an increase in licenses, then the licenses should be made available for issuance. If, on the other hand, the formula calls for a reduction in licenses, then existing operators should be given the opportunity to purchase outstanding licenses and return them to the city.*

The formula should be tabulated every one or two years (probably in April) with 60 days allotted for appeals. After the appeal period is closed and all appeals are resolved there should be a 90 day period to grant new licenses or retire excess licenses.

Fares are another area that could reasonably be reformed. The current hearing process for setting uniform fares can be burdensome and lengthy. Extended delays in granting fare increases can be damaging to the industry and ultimately to the taxicab riding public.

I lean toward a taxicab fare regulation that would allow for a zone of reasonableness in fares. The zone of reasonableness could be 10 to 15% above or below the weighted average fare (or current citywide fare) and would allow for

* Taxicab operators in Montreal, Canada have been authorized to purchase and retire up to 2,000 taxicab licenses.

fare competition and fare increases when needed (e.g. the fast paced inflation of the 1970's). For consistency and public awareness, the fares should be permitted to be changed only twice a year during designated months (e.g. April and October). While fares could vary between fleets, each fleet should be required to have a uniform fare. Thus consumers would shop quality and fares on a fleet wide basis.

Various surcharges (waiting time, night service, rush hour service, snow storm service, extra baggage, etc.) should continue to be permitted. Like the meter fare, the surcharges should be allowed to change only twice a year and should be uniform throughout the fleet. Unlike the meter fare, it would be impractical to determine weighted average surcharge rates, because not all fleets will implement all the various surcharges. Consequently, it may be best to put a cap on annual increases for each surcharge (e.g. 15%).

Another fare setting mechanism could be a fare formula. The formula could adjust fares (annually) based on cost increases/decreases for: 1) automobiles, 2) maintenance, 3) fuel, 4) insurance, 5) driver earnings and 6) financing (interest rates). In this case, there could still be a zone of reasonableness or, the formula could be used to set a citywide taxicab fare. There are two considerable benefits to a citywide fare. First, every consumer will know what they should be charged and second, operators are forced to compete on quality of service instead of price.

Safety issues should continue to be regulated. Every community should examine its insurance requirements to assure they are in keeping with today's costs and judgements.

Quality of service is an area that is particularly important. I believe that all taxicabs should be required to be affiliated with a fleet large enough to serve all parts of the city 24 hours a day (e.g. 25 vehicles) and that every taxicab be required to have a two-way radio and meter.

IV. Conclusion

When changing 150 years of reasonably successful regulation, caution is advisable. Any revision should be carefully thought out and have the acceptance or, at least, the understanding, of all affected parties.

When one element of comprehensive taxicab ordinance is changed, then all elements need to be reviewed. Safety and citywide fares can be adjusted without a total review, but significant revisions to entry, fare structure or quality standards require detailed analysis. Changing entry standards without changing the fare structure and quality standards will most likely lead to a deterioration of service quality. So if it becomes necessary to take action, act with caution and reasonableness.

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DISPATCH

Vol. 1, No. 10

The Business Report of the Taxicab/Paratransit Industry

December 1984

DISTRICT COURT RULES IN FAVOR OF ATLANTA'S RIGHT TO REGULATE TAXICABS

The city of Atlanta received a favorable decision in a final ruling by the United States District Court. This was the second of two rulings made by the court which granted summary judgements to the defendant (city of Atlanta). (Once summary judgements are made and there are no remaining issues in a case, the case is terminated.) The first rulings, also in favor of the city, were granted by the District Court in August 1983. Both rulings uphold Atlanta's right to regulate the taxicab industry through city ordinances.

Court documents state, "The ordinance which is the subject of this action is a comprehensive reorganization of the ordinances regulating vehicles for hire within the city of Atlanta. The industry has historically been regulated by the city pursuant to the police power granted by the state of Georgia. In 1980, prompted by concerns about the quality of taxi service, the City Council adopted an ordinance designed to freeze the number of vehicles and drivers operating in the city."

The original civil rights action, filed by the Airport Taxicab Advisory Committee, alleged that the city's regulation of taxicabs had violated federal and state interstate commerce laws and First and Fourteenth Amendment rights of equal protection and due process guarantees, freedom to travel and to freely associate.

In August 1983, attorneys for the city of Atlanta requested summary judgement on all claims filed by the plaintiffs. The Court ruled for summary judgement in two instances. Ruling in favor of the city, the court found that transporting passengers by taxicab within the city is not interstate commerce and that the city was well within its rights granted by the state of Georgia to regulate the taxicab industry.

As far as transporting passengers to and from the airport, the court ruled that this does not constitute interstate commerce. Previous case law had already established that only prearranged ground transportation for passengers arriving from out of state and making connections for further out of state travel can be considered interstate commerce.

Further, the Court ruled that while taxicab drivers may prefer to serve the airport, they are not required to do so, but are required to service any passenger wishing

to travel by taxicab. Had a taxicab company been granted a monopoly on airport service, interstate commerce laws would be applicable. However, this is not the case in Atlanta. Moreover, passengers travelling to and from the airport are not exclusively interstate travellers and seldom do taxicab drivers transport airport passengers over state lines. Passengers are not restricted to using taxicabs and are free to choose other modes of transportation for travel to and from the airport.

The second instance of summary judgment was made regarding the limit on the number of Certificates of Public Necessity and Convenience (CPNC's) issued by the city to taxicab owners and the residency requirement for permit holders. Through the regulating ordinance, the city has limited the number of CPNC's to 1200, but has placed no limit on the number of driver permits. According to the ordinance, provision is made for a review of the maximum number of CPNC's every three years and the right to increase the ceiling of 1200 has been reserved by the city.

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- John Davidson, Las Cruces, New Mexico . . . "Very well planned and organized . . . attendees' comments were all favorable . . . would like to see a session on experiences with computers and more motivational speakers."
- Billy Wilkes, San Francisco, California . . . "Informative and educational . . . observed an industry that is flexing its muscle . . . an image change is occurring . . . the breakout sessions are excellent . . . operators express trials and tribulations and methods to overcome them."
- Ellis Houston, Houston, Texas . . . "The highlight of the program was the fellowship of the operators . . . overall, very good."
- Sharron Frank, Denver, Colorado . . . "Great convention . . . another job well done . . . would like to see deregulation update."

Once again the ITA would like to express its sincere appreciation to the Ford Motor Company for sponsoring Lunch with the Exhibitors and to Peugeot Motor Company of America for sponsoring Breakfast with the Exhibitors. These events were well attended and contributed to the success of the Annual Convention.

SHOPTALK

The WALL STREET JOURNAL (Tuesday, November 27, 1984) carried a fairly substantial article titled "The Resurgence of Private Participation in Urban Mass Transit Stirs Debate". Several case studies of successful contracts with private companies providing public transportation services were analyzed in the article. The article, timely in view of the recent Private Enterprise Policy released by UMTA, also discusses the barriers to contracting with private providers and reasons why the private operator could provide satisfactory service. ITA's past president, Dick Hunt, Yellow Cab Company, Indianapolis, Indiana is quoted in the article.

John W. Hall, Black & White/Yellow Cabs, Little Rock, Arkansas has been elected justice of the peace of quorum court in Little Rock with 62% of the vote in a three way race. Mr. Hall will carry out the duties and responsibilities of county supervisor and village justice.

The ITA is pleased to report that both the Operator of the Year and the Driver of the Year award recipients received positive and extensive local press coverage.

(Continued from page 1)

ATLANTA

In granting summary judgement to the city, the court found no evidence that limiting the number of CPNC's would create a monopoly or limit competition and that the ordinance is "a valid exercise of the city's police power to better meet what the city determines to be the public need." The court also upheld the requirement that taxicab drivers be a resident of Atlanta for one year. Stating that "public safety and efficient service are legitimate interests for the city to pursue", the court recognized that geographic familiarity and competency in English were reasonable requirements contained in the city's ordinance.

Because insufficient arguments had been presented by both sides on the free association and equal protection issue, the court deferred judgement. In the meantime, amendments to the ordinance were made. In March 1984, the court ruled on the remaining points. Once again, the court's decision reinforced the city's right to regulate the taxicab industry and determine the best interests of the public.

On the issue of equal protection and due process the city's permit application and revocation requirements were called into question. The ordinance stated that driver permits be denied to applicants with criminal convictions within five years of application. Permit holders convicted of felonies would be subject to disciplinary action at the discretion of the Mayor. In December 1983, this section of the ordinance was amended to provide that criminal convictions shall not automatically disqualify an applicant and that discretionary powers exist for holders as well as applicants.

The court found that applicants and permit holders with criminal convictions were treated equally under the ordinance and granted the city's request for summary judgement.

Plaintiffs argued that the ordinance violated the right to free association by requiring taxicab companies to have a minimum of 25 vehicles and that drivers must be affiliated with company. On the other hand, the defendants pleaded that the minimum vehicle requirement was reasonable and kept to "manageable minimum" the number of companies in operation. "Companies are the conduit through which the city inspects, inventories and regulates the industry's operations." The affiliation requirement aides the city's regulatory authority in identifying and locating individual drivers.

In granting summary judgement to the city on this issue, the court found that these "ordinance requirements serve legitimate government interests in that they facilitate the city's regulation of the taxicab industry."

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BOX 189 • NAKNEK, ALASKA 99633

FEB 26 1986

February 19, 1986

Representative Adelheid Herrmann
Pouch V
Juneau, Alaska 99811

Dear Adelheid:

Thanks for sending copy of HB376. As you may be aware that we have an ordinance on vehicles for hire, and support HB376. I have asked the police chief to respond to this bill.

Should there be any further way that we may lend effort to HB376 passage please advise.

Sincerely,

Jim D. Clark
Borough Manager

bjt